

CIA

STATINTL



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**Stenographic Transcript Of
HEARINGS
Before The**

COMMITTEE ON GOVERNMENT OPERATIONS

UNITED STATES SENATE

**S. 189, S. 317, S. Con. Res. 4
LEGISLATION PROPOSING THE ESTABLISHMENT
OF A JOINT OR SELECT COMMITTEE TO OVERSEE
THE INTELLIGENCE FUNCTIONS OF THE GOVERNMENT**

FRIDAY, JANUARY 23, 1976

Washington, D.C.

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C O N T E N T SSTATEMENT OFPAGE

Mr. William Colby,
Director,
Central Intelligence Agency

246

Mr. McGeorge Bundy,
Former Special Assistant to the
President for National Security
Affairs

313

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Friday, January 23, 1976

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United States Senate,
Committee on Government
Operations,
Washington, D.C.

The Committee met, pursuant to notice, at 10:30 o'clock
am. in Room 3302, the Dirksen Senate Office Building, the
Honorable Abraham Ribicoff, Chairman of the Committee,
presiding.

Present: Senators Ribicoff (presiding), Nunn, Glenn,
Percy, Javits, Brock and Weicker.

- - -

Senator Ribicoff. The Committee will be in order.

We welcome you here today, Mr. Colby, and you may proceed,
sir.

1 STATEMENT OF W. E. COLBY, DIRECTOR, CENTRAL
2 INTELLIGENCE AGENCY

3 Mr. Colby. Thank you, Mr. Chairman.

4 Thank you for this opportunity to discuss congressional
5 oversight of our intelligence activities. Despite all the
6 excitement in recent months over CIA and other intelligence
7 activities, this is one of the most critical issues which must
8 be faced in any serious investigation into our Government's
9 intelligence activities.

10 Traditionally, intelligence is assumed to operate in
11 total secrecy and outside the law. This is impossible
12 under our Constitution and in our society. As a result, when
13 CIA was established in 1947, a compromise was made under which
14 broad, general statutes were drawn, and carefully limited
15 arrangements for congressional review were developed. It was
16 then believed necessary to sacrifice oversight in the interest
17 of secrecy.

18 Our society has changed, however, and a greater degree of
19 oversight is now considered necessary. U.S. intelligence has
20 already moved out of the atmosphere of total secrecy which
21 previously characterized it. We who are in intelligence are
22 well aware of the need to retain public confidence and
23 congressional support if we are to continue to make our
24 contribution to the safety of our country.

25 Thus, from the earliest days of the current investigations.

1 I have stressed my hope that they will develop better guide-
2 lines for our operations and stronger oversight, to ensure
3 that our activities do remain within the Constitution and the
4 laws of our country.

5 But I have not swung all the way to the other extreme of
6 the pendulum to the position that there can be no secrecy.

7 General Washington once said, "Upon secrecy, success
8 depends in most enterprised of intelligence." We have many
9 secrets in America which are necessary to the functioning of
10 our democracy -- the ballot box, the grand jury, and our
11 attorney-client relationships. The secrecy of our sources of
12 intelligence is equally important to the preservation of our
13 democracy, and even of our nation in the turbulent world in
14 which we live.

15 In 1947 we took a small step away from total secrecy by
16 enacting general statutes and constructin careful oversight
17 arrangements in the Congress. Proposals now under consideration
18 would alter these arrangements to assure more detailed over-
19 sight. But it is essential that the pendulum not swing so far
20 as to destroy the necessary secrecy of intelligence, or destroy
21 intelligence itself in the process.

22 In former comments on this subject, I many times said that
23 it was up to Congress to organize iteself to exercise the
24 necessary oversight of our intelligence activities. This is
25 still true, but I believe that recent experience permits me

1 to draw some conclusions on this topic which this Committee
2 has graciously invited.

3 The matter has been extensively studied within the
4 Administration during the past year, As President Ford shares
5 many of the concerns of the Congress on this subject. The
6 Rockefeller Commission, the Murphy Commission, our discussions
7 with the Select Committees and other committees reflect this
8 interest.

9 A number of detailed studies were also made within the
10 Executive Branch, reaching the level of two extended meetings
11 President Ford had with National Security Council members.

12 The views of the Administration are not yet formally
13 fixed, so the comments I will make will be personal and based
14 on my experience. My participation in the studies above, how-
15 ever, assures me that my views are in general compatible with
16 the thrust of what President Ford will probably decide, although
17 there may be some variation in the details.

18 Too great a stress on secrecy has led to situations in
19 which members of Congress who were fully briefed on intelligence
20 activities pleaded later that they had never heard of them
21 when they came to public attention.

22 One of the chairmen of our committees once indicated on
23 the floor of the Senate that he had no inkling of one our
24 operations, although he had approved the specific appropriations
25 necessary to continue it.

1 His statement certainly kept the secrecy of his partici-
2 pation in our operation, but at the sacrifice of implying that
3 our intelligence activities were operating without oversight
4 and control. Indeed he added to public concern that we con-
5 stituted some independent "invisible government."

6 On a number of occasions, especially since 1956, proposals
7 have been made to establish a joint committee on intelligence,
8 but the Congress has never seen fit to adopt them. During the
9 past year jurisdictional problems have been highlighted in
10 the Congress as a result of two things.

11 First, foreign intelligence today is not primarily
12 limited to military intelligence, as it may have been in
13 earlier years. It is also is now of interest to those
14 committees concerned with our economy, our foreign relations,
15 our agriculture, space and a wide variety of other activities.

16 As a result, we have had a proliferation of demands for
17 congressional review of sensitive foreign intelligence matters
18 in these fields by other committees to the degree that 59
19 Senators and 149 Representatives have been briefed on some
20 aspect of our activities this past year alone.

21 Second, during 1974, there was much congressional interest
22 in our covert action activities, sparked by exposure of testimony
23 I gave to one of our oversight committees on the subject. Both
24 the House and the Senate, by 3 to 1 majorities, turned down
25 proposals that CIA be barred from such activities.

1 But in December 1974, a provision was added to the
2 Foreign Assistance Act which required that any CIA activity
3 abroad other than intelligence gathering could only be
4 conducted if it were found by the President to be important to
5 the national security and reported in a timely fashion to the
6 appropriate committees of the Congress. Together with the
7 two Select Committees, these appropriate committees now number
8 eight.

9 I might quote Mr. Chairman from the conference report
10 which led to the adoption of that new act, and it says that
11 "The Committee of Conference agrees that strict measures should
12 be taken to ensure maximum security of the information sub-
13 mitted to the Congress pursuant to this provision."

14 The Executive Branch is fully complying with that pro-
15 vision of the law. The President made the appropriate findings,
16 and briefings were given to the committees according to what-
17 ever arrangements the committees made. It was stressed and
18 understood on all sides that these matters were sensitive,
19 secret operations whose exposure would cause political damage
20 to our foreign policy as well as frustration to the operations
21 concerned.

22 The result of the year's experience, in my mind, is
23 clear. The system will not work. Every one of the new
24 projects that were subjected to this process has leaked into
25 the public domain.

1 I am prepared to argue the value of each of these projects,
2 but that is not my current point. The fact is that a secret
3 operation conducted precisely according to the procedure set
4 up by the Congress cannot be kept secret. I believe it
5 essential to repeal that procedure and replace it by another
6 which will include provisions for adequate secrecy.

7 In this Bicentennial year, it is appropriate to note an
8 earlier American experience with this problem. On November 9,
9 1775, the Continental Congress adopted a resolution of secrecy
10 under which any member who disclosed a matter which the majority
11 had determined should be kept secret was to be expelled and
12 "deemed an enemy to the liberties of America."

13 On November 29, 1775, the Congress established the
14 Committee on Secret Correspondence and gave it foreign
15 intelligence responsibilities, managing a network of secret
16 agents in Europe.

17 The Committee took steps to protect the secrecy of its
18 intelligence activities by sharply restricting access to
19 operational matters. On one occasion, the Committee justified
20 the secrecy of its information as follows: "Considering the
21 nature and importance of it, we agree that it is our indis-
22 pensable duty to keep it secret, even from Congress. We find,
23 by fatal experience, that Congress consists of too many members
24 to keep secrets."
25

1 Mr. Chairman, at that time there were 56 representatives
2 in the Congress, compared to the 208 that I reported briefing
3 during 1974.

4 If the Congress should decide to adopt new oversight
5 arrangements, I believe it should establish a representative
6 group to oversee intelligence activities on Congress' behalf.

7 This representative group could be a joint committee or
8 another arrangement. In any event a representative group
9 should consist of a restricted number of members so that we do
10 not involve the large numbers of Congressmen currently
11 briefed on our sensitive activities.

12 The representative character of such an oversight body
13 must be respected by us in the Intelligence Community, so that
14 we can make available the information it needs to do its job.

15 At the same time, arrangements can and should be developed
16 between such a representative body and the Intelligence
17 Community by which reasonable limits are established as to the
18 matters made available even to it.

19 In my present post as Director of Central Intelligence,
20 I do not insist, for example, upon knowing the name of a
21 foreign agent in some dangerous situation. It is not necessary
22 to my duties that I know his specific identity.

23 It is essential that we be able to assure our foreign
24 agents abroad, a number of whom have already expressed their
25 alarm and limited what they tell us, that their names will be

1 totally protected, since their lives or livelihoods are at
2 peril.

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4 agents abroad, a number of whom have already expressed their
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6 totally protected, since their lives or livelihoods are at
7 peril.

8 I would expect that a responsible representative committee
9 of Congress would similarly not request such specific identifi-
10 cation, as our current oversight and Select Committees have not
11 requested such sensitive information.

12 Understanding of this nature between a responsible over-
13 sight body and the Intelligence Community would be more pro-
14 ductive than adversary debates over either branch's right to
15 have or to withhold such information.

16 A responsible oversight body must not discourage the
17 Intelligence Community from conducting its own investigations
18 and correcting its activities. A great portion of this year's
19 investigations has consisted jnly of public repetition of the
20 private reviews by the Intelligence Community of its own
21 activities.

22 Since the full story of American intelligence remains
23 secret, the impression is left with our public that what was
24 revealed is characteristic of the whole. The experience has
25 doen little to encourage objective and hard-hitting self-

1 examination in the future.

2 CIA's collation of a list of some questionable activities
3 in the domestic field was used as the basis for sensational
4 charges of a massive illegal domestic intelligence operation.
5 In truth, our misdeeds were far and few between, as the final
6 Rockefeller Commission report reveals.

7 CIA's investigations into possible assassination activity,
8 which led to specific directives in 1972 and 1973 against such
9 activity, have been the basis for sweeping allegations that
10 assassinations are part of our function. We never assassinated
11 anyone, as the Senate report on intelligence reveals. And our
12 own post-mortems of our performance in various intelligence
13 situations have been selectively exposed to give a totally
14 erroneous impression of continued failures of American
15 intelligence.

16 In fact, we have the best intelligence service in the
17 world. But we cannot keep it that way if every one of its
18 corrective efforts is trumpeted to its enemies.

19 In the consideration of any or altered oversight
20 arrangements, the Congress should, I believe, deal with the
21 problem of proliferation of congressional review of intelli-
22 gence activities.

23 I strongly urge that oversight be concentrated exclusively
24 in the minimum number of committees necessary to effectively
25 conduct it, which to me means one.

1 Otherwise we are in danger of reverting to the situation
2 of reporting to a myriad of committees and exposing parts of
3 our activities in all directions. It should be possible to
4 concentrate congressional oversight, perhaps arranging that the
5 oversight committee have representation from the other standing
6 committees with interest in this subject.

7 The issue of giving prior notice to Congress of sensitive
8 intelligence operations has been raised, Mr. Chairman. I
9 believe this is a thoroughly false issue.

10 The present statute calls for the appropriate committees
11 to be informed in a timely fashion with respect to activities
12 abroad other than intelligence gathering. Our regular over-
13 sight committees are kept currently informed of major
14 developments, and each year they review our appropriation
15 request in great detail.

16 A requirement of prior notice before any intelligence
17 activity could be undertaken would, in my view, conflict with
18 the President's constitutional rights, would be totally
19 impractical during times of congressional recess when crises
20 can arise, and would add nothing to the ability of the Congress
21 to express its views about any of our activities.

22 We currently inform the Congress on any decision immediately,
23 although the actual hearing may be delayed by the committee in
24 question for several weeks. Almost none of our activities are
25 single-step operations which take place on only one occasion.

1 An intelligence or covert action operation is generally
2 a continuing effort running over some time. Informed of such
3 an activity, a committee has every ability to express the
4 concern of its individual members, to vote in committee its
5 opinion with respect to the activity, to appeal to the con-
6 gressional leadership, and even to seek an appointment with the
7 President himself. The committee also retains the ultimate
8 legislative or appropriation sanction, if its views are not
9 given due weight.

10 The unilateral exposure of an operation to public notice
11 is not the solution. In essence, the theory adopted by some is
12 that the right to expose such operations constitutes a super-
13 constitutional individual veto of any secret activity.

14 We cannot run such secret operations, Mr. Chairman, if
15 Congressmen confirm to inquiring newsmen operating on a lead
16 that indeed they were given a secret briefing on a covert
17 operation in a certain country, instead of refusing to comment.

18 Neither can we run secret operations if individual
19 Congressmen announce that there are three other operations which
20 have not yet been disclosed, thereby stimulating every
21 investigative reporter in Washington to determine the specifics
22 thereof by some hypothetical questions.

23 And we cannot conduct covert operations if a committee puts
24 out a report which refers to an activity which leaves out the
25 name of the country or individual concerned, but gives enough

1 evidence for any amateur sleuth to identify it beyond a
2 shadow of a doubt in time for its identification to be carried
3 with the news story of the report.

4 An essential element of new congressional oversight
5 arrangements is better procedures for protecting sensitive
6 information. Senate Rule 36 (2) and (3) states that confi-
7 dential communications from the President or head of any
8 department are to be kept secret unless the Senate votes.

9 But the Senate, on November 20 last year, failed to vote
10 on the release by the Select Committee of information which
11 the President specifically requested be kept secret and in the
12 face of my request that certain names of CIA personnel there-
13 in be deleted.

14 In the House of Representatives, Rule XI.2.(e)(2) provides
15 that the records of any committee are open to any member,
16 which on at least one occasion has let to the exposure of
17 certain CIA operations despite the written promise of a
18 Member to keep them secret.

19 The arrangements for Congress to receive and protect
20 sensitive information are most imperfect. A prior security
21 clearance of staff members and termination of employment for
22 disclosure are hardly adequate sanctions to ensure the pro-
23 tection of sensitive intelligence sources which can produce
24 substantial royalties for its disclosure.

25 The extensive briefings and indoctrination and the secrecy

1 agreements employed in the Executive Branch have even proved
2 inadequate in the state of our present legislation. With
3 respect to staff members, therefore, I believe it essential
4 that a regular procedure of security protection be established.

5 This must be enforceable not only by indoctrination and
6 discipline but also by sanctions. These are contained in
7 legislation which I have proposed and which is about to be
8 recommended in the Executive Branch to cover those who
9 voluntarily undertake the obligation of secrecy as an aspect
10 of their employment.

11 This proposal would apply equally to Executive Branch
12 employees and congressional staff members who obtain privileged
13 access to our intelligence secrets.

14 With respect to members of Congress themselves, we must,
15 of course, look to the self-discipline of the two houses
16 with respect to their membership.

17 Mr. Chairman, we also need a procedure to determine the
18 declassification and public release of those secrets that no
19 longer need to be protected. This cannot be left to the
20 individual staff member in the Executive or the Legislative
21 Branch.

22 Under the Constitution, it cannot be assumed by the
23 Legislative Branch alone and any such contention would inevitably
24 restrict the flow of sensitive information from the Executive.

25 This could consist of an agreement that if the committee

1 decides on release, the President has reasonable opportunity
2 to certify that the release would be detrimental to the
3 national security, and his determination then would govern in
4 the absence of further resolution of the constitutional
5 questions involved.

6 And this must apply to any release of the information,
7 so as not to lead to an absurd situation in which a committee
8 agrees not to release individual reports of secret activities
9 but then proposes to publish them in its final report.

10 In conclusion, Mr. Chairman, I believe that congressional
11 oversight of our intelligence activities can be strengthened.
12 The degree of oversight can be increased relative to that in
13 the years in which there was a general consensus that these
14 matters were better not known by outsiders.

15 The structure can be improved by focusing responsibility
16 so that a depth of knowledge and expertise about our intelli-
17 gence operations can be developed.

18 The structure can also be improved by clear assignment of
19 responsibility for exclusive supervision of our intelligence
20 activities to a limited number of members of the Congress,
21 representing the Congress as a whole, who would have full access
22 to all information appropriate to exercise their responsibilities.

23 And congressional oversight can be improved by making
24 arrangements with Congress to protect the sensitive intelligence
25 activities of our Government in the same way as we protect

1 other secrets essential to the survival of American democracy.

2 Executive Branch supervision can also be improved by
3 ensuring the discipline of those in the intelligence pro-
4 fession and of their supervisors as to their respect for these
5 important national secrets, and by giving us the ability to
6 enforce such protection against those who would wantonly
7 destroy them.

8 These improvements, Mr. Chairman, in supervision of our
9 intelligence activities would have truly more long-lasting
10 value as a result of this year of investigation than any other
11 action taken by the Congress.

12 They would be a fitting conclusion to this year of inves-
13 tigation of intelligence -- so that our intelligence service
14 will be responsible to our Constitution, its legislative over-
15 sight will be equally responsible, and we will continue to
16 have the best intelligence in the world.

17 It will give, Mr. Chairman, a new meaning to the initials
18 CIA, Constitutional Intelligence for America, with equal stress
19 on the needs of all three; the Constitution, intelligence, and
20 especially America.

21 Thank you, Mr. Chairman.

22
23
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25

1

1 Senator Ribicoff. Thank you very much, Mr. Colby.

2 Mr. Colby, you are for the establishment of an oversight
3 committee on intelligence?

4 Mr. Colby. A Committee with exclusive jurisdiction for
5 the oversight of foreign intelligence, Mr. Chairman.

6 Senator Ribicoff. Senator Mansfield, in his testimony,
7 believes that that Committee should be established in this
8 session of Congress.

9 Senator Weicker states, if this session of Congress does
10 not establish such a committee, it will not be established.

11 Senator Tower says that we should not establish it in
12 this session of Congress, but put it over to the next session
13 of Congress.

14 Do you agree that Congress should establish that oversight
15 committee in this session of Congress?

16 Mr. Colby. I think the sooner the better, Mr. Chairman.

17 Senator Ribicoff. On page 6, you state that the CIA has
18 never assassinated anyone.

19 Would you support a prohibition against the assassination
20 of anyone in the absence of war?

21 Mr. Colby. I have issued directives to that effect in
22 the CIA, Mr. Chairman. I would have no reservation against
23 such a prohibition.

24 Senator Ribicoff. What do you think, Mr. Colby, that a
25 Congressional Committee should do if it opposes a decision

1 to conduct a covert operation and Congress has only a few
2 days in which to act before an operation goes into effect?

3 Mr. Colby. I believe the Committee might vote, the
4 Committee might weigh upon the President and express their
5 views to him specifically. The Committee can obviously indi-
6 cate that it has an ultimate authority to pass new legislation
7 in the future, or affect appropriations in the future of the
8 agency involved in such activity, and I think the normal
9 workings of the Constitutional tension between the two
10 branches will bring about some resolution, perhaps not of that
11 particular action, if the President felt it to be terribly
12 important, but would develop a relationship between the
13 Executive Branch and the Legislative which would give full
14 consideration to the views of the Legislative as well as
15 the Executive side.

16 Senator Ribicoff. May I say, for the benefit of the
17 members of the Committee, we will confine ourselves to five
18 minutes each for questioning because Mr. Colby must leave
19 by 12:15.

20 Suppose there was such a Committee and you came before
21 it with an operation such as Angola and you found that the
22 Committee was overwhelmingly against the United States getting
23 involved in Angola because they sensed the Congressional
24 feeling, as it had been expressed, by votes in the United
25 States Senate.

1 What do you see an intelligence agency doing under those
2 circumstances?

3 Mr. Colby. I would certainly report that reaction to the
4 President. We would discuss as to what we should do in that
5 situation. The situation has not arisen, Mr. Chairman. I have
6 had situations where individual members have indicated
7 opposition, but my sense of the feeling of the Committee in
8 question has been that other members were equally positive
9 about it.

10 There are certain situations in which I have had formal
11 documents from Committees urging action in certain areas and
12 we have taken that action and then been met with substantial
13 opposition from other members, individual members.

14 I think that is the kind of thing that could be worked
15 out. If it were organized in a fashion so that the Committee
16 could vote, we could have a decision as to what the Committee's
17 real thought was.

18 There was one Committee that I briefed in great detail on
19 one project and at the end of it, I was asked to summarize
20 the result of the Committee's attitude. I said that I gathered
21 from my extensive briefing that the Committee was not very
22 strongly for it, and it was not very strong against it. That
23 was met with general approval as a statement of the Committee's
24 view.

25 I think that there is a further question, Mr. Chairman,

1 which is whether the individual members wish to be put in a
2 position of a formal vote on these kinds of operations or
3 whether they would rather be in a situation where they have
4 not been committed to responsibility for the operation, freeing
5 themselves to take such Congressional criticism of them
6 afterwards if they do not work out.

7 Senator Ribicoff. We have been talking here about
8 Congressional oversight, but there is a problem of oversight
9 in the Executive Branch.

10 You testified before the Senate Appropriations Committee
11 in January, 1975, "The arrangements for administrative super-
12 vision of the CIA and the intelligence community by the
13 Executive Branch appears sufficient at this time."

14 Yet Secretary Rusk appeared before us yesterday and
15 stated that while he was Secretary of State, operations were
16 conducted by the CIA which he did not know about at that
17 time, but only has discovered in recent days. And Mr. Katzen-
18 back, who was Under-Secretary of State at that time, when I
19 asked him the question, he said he did not know about it, but
20 he assumed that the Secretary of State knew about it.

21 How do you go about assuring that the National Security
22 Council and the President are aware of basic and important
23 operations by the intelligence agencies?

24 Mr. Colby. Our normal procedure is to submit a proposal
25 for a certain operation. This goes to a Subcommittee of the

1 National Security Council, the so-called 40 Committee. It is
2 debated and discussed there.

3 The consensus or the different positions are recorded,
4 the matter is then taken to the President for final decision.

5 The National Security Council is advisory to the
6 President. It is not an independent body of its own. It is
7 an advisor to the President.

8 There have been a very few occasions, Mr. Chairman, in
9 which the President has given direct instructions to the CIA
10 to conduct operations without informing certain other members
11 of the National Security Council, the State Department, or the
12 Defense Department.

13 There are many situations in which we conduct operations
14 which are not known to the bureaucracy of any one of the other
15 departments because we have the same problem of retaining
16 secrecy, if the information spreads too far in the Executive
17 Branch, as I referred to with respect to its spreading too
18 far in the Legislative Branch.

19 But I think that the President's arrangement for the
20 working of this kind of activity call upon us to go through
21 a consultative procedure before he makes his decision, but
22 since we are essentially using his authority in this kind
23 of operation, I think that we have to be responsive to him.

24 However, under present law, the point has clearly been
25 made several times that even if the President gave a personal

1 and direct order about a particular operation, it would still,
2 under the law, have to be reported to the six committees of
3 the Congress.

4 Senator Ribicoff. In other words, the Committees of
5 Congress would know, and the Secretary of State and the
6 Secretary of Defense would not know?

7 Mr. Colby. Potentially, but very hypothetically; I think
8 that more or less will compel consultation with the other
9 departments.

10 Senator Ribicoff. One final question.

11 In that chart up against the wall, the Director of
12 Central Intelligence, should he be the same man that directs
13 the Central Intelligence Agency, or do you think that it would
14 be better if the Director of Central Intelligence would be
15 the representative of the President to supervise all intelli-
16 gence agencies of our nation?

17 Mr. Colby. I think the Director of Central Intelligence
18 needs the kind of staff support to do his function, Mr.
19 Chairman, that the Central Intelligence Agency provides, the
20 analysis support structure which can support him in making
21 decisions about these important events.

22 I think there may be a tendency for an independent
23 Director to be a little isolated from his base of support,
24 base of knowledge of what is going on and be in a position
25 of not being as effective as the Director with access to the

1 resources of CIA is able to be.

2 Senator Ribicoff. What bothers me is, is it not
3 possible that there would be a difference of opinion as to
4 an operation between the Central Intelligence Agency and
5 any of the other intelligence agencies?

6 How do you resolve that, or do you always resolve it?

7 If you are the boss, the Director of Central Intelligence
8 and also head up the Central Intelligence Agency, would you
9 also not be prejudiced towards your agencies as against all
10 of the other agencies that we have listed in that box?

11 Mr. Colby. I am not the boss of the other agencies,
12 Mr. Chairman. I have had a number of those situations in
13 which there have been differences between CIA and the other
14 agencies. Some of those I have recommended be resolved in
15 favor of the CIA position; some of them I have recommended be
16 resolved in favor of the other agency's position.

17 If there came a difference with, say, the National
18 Security Agency which reports to the Secretary of Defense,
19 obviously he could appeal to the Secretary of Defense to
20 support his view. I would still object to it, and we would
21 both appeal to the President. That is perfectly possible, if
22 that developed.

23 That prevents the Director of Central Intelligence
24 from favoring one group which he has control over over another
25 group over which he does not have authority.

1 Senator Ribicoff. Senator Percy?

2 Senator Percy. Mr. Colby, I would like to take one of
3 my five minutes, if you would be interested, in giving you
4 an evaluation as one member of the Senate, what I think your job
5 has been and the kind of job that you have done, and to tell
6 you what I think this Committee in principle is going to do.

7 These are the final days of your tenure as Director of
8 the Central Intelligence Agency. I think you have handled
9 an extremely difficult job in an exemplary fashion.

10 At a time when the CIA was under great attack from all
11 fronts for misdeeds before your Directorship, you have
12 maintained a degree of candor and openness and a very welcome
13 and appropriate sense of humor at the right time that has
14 been, I think, in a great tradition.

15 I think that you have done much to shed that part of
16 a cloak that is inappropriate to an American intelligence
17 agency in the year 1976. I think that you have steadfastly
18 and effectively pleaded the case to keep secret what should
19 remain secret and which, in our form of government, I think
20 is Constitutionally provided for, and I, as one member of
21 the Senate, will work and fight to maintain the right for
22 us to have certain secrets in the government.

23 I think that you have made a very honest and successful
24 effort to cooperate with the two investigating Committees of
25 the Congress under what, in my view, were extremely trying

1 circumstances. I think you can be proud of your accomplish-
2 ments as Director of the Central Intelligence Agency in this
3 regard.

4 I want to thank you for what I personally feel you have
5 done and the gratitude that I think many members of the
6 Congress feel towards you and the American people should, and
7 we wish you the very best of everything in
8 everything you might undertake in your future role.

9 You have been a great American. I think you have performed
10 as a great human being and I think you performed in the finest
11 tradition of the American intelligence service.

12 Mr. Colby. Thank you.

13 Senator Percy. From the standpoint of what I think we
14 are going to do in principle, I have worked with educational,
15 political and philanthropic groups, and I have never in my
16 life worked with a finer Chairman, a more able Chairman, and
17 a more fair Chairman than Senator Ribicoff, and I have never
18 worked with a group of men that I felt were less partisan,
19 more objective in seeking the truth more than the members
20 of this particular Committee.

21 We are going to differ in certain respects as to what
22 we will do. I happen to think, for instance, that we should
23 not be -- the oversight Committee should not become part and
24 parcel of the CIA. I do not think we should have that
25 responsibility. We ought to exercise strict oversight. We

1 ought to be in a position to work to fire the Directors if
2 they fail.

3 Just as John F. Kennedy said to the Director of the
4 CIA, in a parliamentary form of government after the Bay of
5 Pigs, I would be out; in our form of government, you are
6 out, and a change was made.

7 We ought to be in that position because no one can fire
8 us, except the voters. We ought not be part of those decisions.

9 I, for one, will work to protect that position.

10 Senator Ribicoff. Senator Percy, I am sure Mr. Colby at
11 this stage of the proceedings appreciates a kind word from
12 anyone. We will not charge that word of praise to your five
13 minutes. You have five minutes of your own.

14 Senator Percy. Thank you, Mr. Chairman.

15 The first question is a follow-up on the question that
16 I did put to Secretary Rusk and has been alluded to by the
17 Chairman.

18 Specifically, did you as Director, or do you know, of
19 actions undertaken by the CIA at some lower level of a major
20 consequence that were not known to the Director of the CIA and
21 were not known by the Secretary of State when he should have
22 been advised of such major operations?

23 I am not going to ask you what they are, but in principle.

24 Mr. Colby. The only one of those that I know of is the
25 one which came out in the Senate Report on the assassinations.

1 the effort, the Track II effort in Chile in 1970 that was
2 conducted independently of the Secretary of State and the
3 Department of State under the express order of the President.

4 There was one other operation, which was not a major one,
5 which was conducted privately by the Agency. That is all I
6 know of. That was terminated long ago.

7 Senator Percy. Could you tell this Committee what
8 proportion of your time since you have become Director that
9 you have spent either testifying before Congressional Committees
10 or preparing for such testimony, or mopping up the aftermath?

11 Mr. Colby. I would say it is in the neighborhood of half
12 the time, more or less, something of that nature.

13 Senator Percy. Is your advisor telling you that that
14 is high or low?

15 Mr. Rogovin. I said 122 percent.

16 Senator Percy. How much time do you think that Directors
17 of Central Intelligence, to be an effective administrator
18 of that first worldwide agency, what proportion of time do
19 you think should properly be spent -- and certainly some
20 should -- with the Congress to appropriately advise them?

21 Mr. Colby. The most important job that the Director
22 has, Senator Percy, is the substance of intelligence, to
23 make sure that the right information is going to our national
24 leadership.

25 I think that ought to take something on the order of

1 60-odd percent. The management of intelligence, the resource
2 control, things of that nature, I think should be handled
3 through some staff support assistance.

4 I think that the relationship, the running of CIA itself,
5 needs some special staff support so that many of the personnel
6 and logistic decisions that have to be taken about the
7 organization can be taken in great part with the assistance
8 of staff.

9 Then, I would say, depending on the political climate of
10 the problem, obviously you are going to have to brief the
11 budget and discuss the budget in great detail, discuss changes
12 in law. There is a function of bringing the substance of
13 intelligence to the Congress as well, and this can be best
14 done in briefings on the world situation, such as I gave
15 yesterday to one of the Committees of the House, in which we
16 discussed the problems of the Soviet Union and China and
17 things of that nature.

18 I would say of the Director's total time, that spent
19 with Congress should be in the neighborhood of something
20 on the order of between 10 and 20 percent. I would divide
21 that about half and half between providing the substantive
22 information and discussing our operational activities.

23 Senator Percy. Do you feel that there may be some
24 virtue in our looking at the possibility, inasmuch as we
25 probably will end up with a separate Senate and House Committee

1 rather than a Joint Committee, of trying to combine the
2 appropriations and authorization function so that once you
3 have presented your case and told the details, as long as we
4 have a Budget Committee anyway, on top of it, whether or not
5 it could not be done just once in each House rather than
6 four times, rather than eight?

7 Mr. Colby. Ideally, certainly, Senator. This again
8 gets back to the exclusive jurisdiction in an oversight
9 committee. I would hope that Committee would also have either
10 exclusive or well-nigh appropriate jurisdiction over the
11 appropriations decisions of the Agency, that includes both
12 the authorization and the appropriation itself.

13 Senator Percy. I get a feeling from the alumni of the
14 CIA and the membership that there is the same sort of spirit
15 that exists in the Senate, an Old Boy, Old Girl -- let us
16 say Old Person -- attitude.

17 Do you think George Bush, not being an Old Boy in the
18 intelligence community, is going to have some unusual problems
19 in getting a grasp on this? Can you assist and help him in
20 the transitional process?

21 Mr. Colby. When Mr. Bush, at my invitation, came out for
22 the first lunch with some of our senior officers, one of
23 our senior officers cut through the discussion at one point
24 and remarked that of course as fellow professionals with me,
25 they were sorry to see me go and so forth, but he said, I do

1 not want that to dominate anybody's thinking. We are
2 professionals here, and we are intelligence professionals,
3 committed to this work for our government, and we are going
4 to serve fully whomever the President puts in in charge.

5 I think that they will give him every full loyalty and
6 every full support; from the briefings we have had, the
7 discussions we have had, I have every confidence that Ambassa-
8 dor Bush will do an absolutely splendid job as Director.

9 Senator Percy. Mr. Chairman, if we do not come back for
10 a second round, I have a number of questions that I would
11 like to submit for the record.

12 I would only like to again express -- as I have many
13 times before -- my appreciation to the Agency for helping me
14 and every other member of the Senate fulfill our responsibil-
15 ities. I could not possibly have fulfilled my duties and
16 responsibilities with the limited resources we have in the
17 Senate, without the help of the Agency.

18 It was one of the first calls that I made when I came
19 to Washington, to go over and have dinner with the Director
20 and the top members. Ever since then, they have been inval-
21 uable -- in helping us to beat the ABM, not because they took
22 a position, but with facts that enabled us to say that that
23 was an absolutely technological boondoggle. Every single
24 trip that I have taken abroad, the Agency has been in the
25 forefront of helping me.

1 I see a lot of skeptical faces in this room. I know
2 there are a lot of people -- you are a very unpopular Agency
3 at this time. All the more reason that those of us who
4 believe that there is a real function and a real purpose and
5 we could not have a nation without a good intelligence service,
6 I want to lay it right on the line. There are bad things
7 that we are going to root out, and you have helped do that.
8 There are fine splendid things that must be given full
9 credit.

10 Many of my colleagues feel that way.

11 Mr. Colby. Senator, I would like to express our appre-
12 ciation to you as a customer of the Agency -- you stand as one
13 of our best customers in the use of the Agency -- for the
14 intelligence support that it can provide to the Congress in
15 making its decisions, just as we give it to the Executive.

16 It is a pleasure to serve you.

17 Senator Percy. As a customer, the price is right. You
18 have not overcharged at all.

19 Mr. Colby. Thank you very much.

20 Senator Percy. Thank you, Mr. Chairman.

21 Senator Ribicoff. Senator Nunn?

22 Senator Nunn. Thank you, Mr. Chairman.

23 I would like to echo what Senator Percy has said about
24 Mr. Colby and the way, the exemplary manner in which he has
25 handled all of these difficulties. I would also like to join

1 his complimentary remarks about you, Mr. Chairman. I do
2 think you are the perfect person to head up this Committee.

3 I am not looking for any additional time by that remark.

4 Mr. Colby, I have two or three questions.

5 On page 9 of your report, the second paragraph, you say,
6 "A prior security clearance of staff members and termination
7 of employment for disclosure are hardly adequate sanctions to
8 ensure the protection of sensitive intelligence sources which
9 can produce substantial royalties for its disclosure."

10 I know that you choose your words very carefully. These
11 words add apprehension to me about some of the things that
12 have been going on.

13 Do you have any meaning that is not apparent here about
14 past leaks that may have occurred in the past few years?

15 Mr. Colby. We had an extensive legal process against
16 one of our ex-employees which the courts did support, thanks
17 to the fact that we had a secrecy agreement with him, and
18 secondly we learned that he planned to publish before he
19 actually published.

20 I am not quite sure how successful we would have been if
21 he had published without our having run across the fact that
22 he was proposing to publish some of our secrets.

23 This reference here, of course, is that with only a
24 limited degree of control in the future over staff members
25 that work for a Committee or other organization for awhile and

1 then learn a lot of secrets in the process and then go off
2 with their information in their heads but without any other
3 control on them, they have a great deal of information which
4 could indeed provide substantial royalties. I am concerned
5 about that.

6 Senator Nunn. The present law requires timely notice of
7 the respective committees that have jurisdiction -- I believe
8 there are six, you said there are eight, counting the two
9 Select Committees.

10 Do you think that the words "timely notice" are adequate
11 in terms of a new statute that would give the Committee
12 jurisdiction? If so, what does "timely notice" mean to you?

13 Mr. Colby. "Timely notice" means to us, the day that
14 we are informed that the President has signed the finding,
15 we call up the staffs of the six Committees and inform them
16 that we have a finding to report to them at their convenience.

17 I have done that the next morning with some Committees,
18 and I have done it some weeks later with other Committees,
19 depending on the Committee. We are at their disposal at
20 any time, after that particular notice. We make a point of
21 getting that notice out immediately.

22 Senator Nunn. If the President were to give you orders
23 now for a new kind of covert activity in some unknown nation,
24 hypothetically, and you had just received that word from the
25 Committee of 40 or the NSC or the President or whomever, your

1 normal chain of command is what, would you think?

2 Say you received that final go-ahead this morning for
3 implementing a covert plan. What would be your attitude and
4 what would be your action towards the Congressional Committee,
5 whatever Committee might be under the mandate of "timely
6 notice"?

7 Mr. Colby. I would require my Legislative Counsel to
8 call the staff members of the Committees this afternoon.
9 Since we are beginning a week-end, I would try to make it
10 today. If we missed them this afternoon, we would try to get
11 them tomorrow, to tell them that we have a finding to report
12 to them under the Section 662 of the Foreign Assistance Act.
13 They know exactly what we mean.

14 We have also arranged that our Legislative Counsel visit
15 the Committees in the very near future, the next day, to advise
16 the Chairman of exactly what country is involved. It does
17 not go into further detail. It says which country it is as
18 soon as possible, the next day or whenever.

19 We then say that we are totally at the Committee's disposal
20 to come up any time they wish to give them a full briefing.

21 Senator Nunn. Before the Committee meets and you give
22 them details, do you feel any compulsion in not implementing
23 the order of the President?

24 Mr. Colby. No, I do not.

25 I feel that if there is an emergency, a crisis that needs

1 to be acted on I can go ahead and act. This was considered
2 in the legislative debate, Senator Nunn, before the adoption
3 of that particular provision.

4 There was a consideration about whether prior notice
5 would be required, and it was dropped from the
6 provision.

side lb 7 Senator Nunn. Mr. Phillips testified yesterday and
8 made a statement that I took to mean what in his impression
9 was what we have now by reason of the leaks and disclosure
10 by the Legislative and Executive Branches within the last
11 eighteen months, we have in effect a de facto moratorium on
12 covert activities.

13 In other words, his impression was that covert activities
14 being successfully carried out in the present atmosphere
15 are impossible.

16 Do you have any observation on that one way or the other?

17 Mr. Colby. There are very few covert actions that we
18 reported to the Congress last January as soon as the law
19 was passed, which are continuing. They are not very prominent
20 ones. They are not very politically sensitive ones, but they
21 are going ahead.

22 During this year, I made certain proposals for covert
23 actions. These were approved and initiated and reported and
24 every one of them has leaked.

25 I believe it essential, if we face some situation that

1 requires action in the rest of the world, that we will have
2 to consider the possibility of a leak, but also consider
3 the likelihood that the thing will go badly if we do nothing.

4 We will have to take a risk factor in deciding what to
5 do.

6 Senator Nunn. In other words, despite the problems, if
7 you felt that covert activity was essential for the best
8 interests of our nation today you would still recommend it
9 and make every effort under the proper authority to implement
10 it?

11 Mr. Colby. I certainly would and have done so.

12 Senator Nunn. One other question.

13 I understood -- and I do not think this is a part of
14 your prepared remarks -- that you do favor an oversight
15 committee without any doubt. I understood you to say that
16 you favored an oversight committee that would be limited
17 to foreign intelligence.

18 Are you saying that you would not combine this committee's
19 jurisdiction to cover the FBI in their domestic jurisdiction?

20 Mr. Colby. The domestic intelligence problem, the
21 domestic scene, is quite a different problem from the foreign
22 intelligence area, Senator. Trying to put them both in the
23 same committee might raise more jurisdictional problems than
24 would be necessary.

25 I limit myself as the spokesman for foreign intelligence,

1 consequently I would leave to the Congress the extent of the
2 jurisdiction. I do speak for only the foreign intelligence
3 action.

4 Senator Ribicoff. To stress this point, would that
5 include, in your estimation, the counterintelligence activities
6 of the FBI in this country? Are they coordinated?

7 Mr. Colby. We coordinate, but no, it would not, in my
8 view, include the FBI's counterintelligence activities in
9 this country.

10 I think the exclusive jurisdiction that I referred to
11 would refer to foreign intelligence collection abroad, such
12 activities of the CIA here in America that are related to
13 foreign intelligence collection.

14 There are a few that are perfectly proper.

15 It would also include the foreign intelligence aspects
16 of some of the other agencies in the intelligence community
17 but not include the FBI itself, because that is basically
18 a domestic, internal security focus, their responsibility.

19 Senator Nunn. Mr. Colby, would you favor statutorially
20 limited terms for the Directors of the CIA and FBI?

21 You can answer those separately.

22 Mr. Colby. I really do not think that it is appropriate
23 for me to talk about the FBI.

24 Senator Nunn. With respect to the CIA.

25 Mr. Colby. With respect to the CIA, I was so much

1 flattered by the remark in the Rockefeller Commission Report
2 that the Director's job should be limited to ten years. I
3 thought that was quite a lot longer than I anticipated.
4 No Director has been in office for more than six years.

5 I think perhaps it would be an appropriate limitation,
6 yes.

7 Senator Nunn. Thank you, Mr. Chairman.

8 Senator Ribicoff. Senator Brock?

9 Senator Brock. Thank you, Mr. Chairman.

10 Mr. Colby, I simply echo the sentiments of my colleagues
11 from Illinois and Georgia in my personal respect for you as
12 a man and as a public servant.

13 Mr. Colby. Thank you, Senator.

14 Senator Brock. I think I might preface this question by
15 admitting an enormous degree of frustration, and frankly
16 anger and disgust, over the recent leaks from the Congress of
17 the United States, and I have particular reference to the
18 actions of the House Committee and its printing of a report
19 which I thought there was an agreement -- and I think everybody
20 else thought there was an agreement -- including the members
21 of the Committee with the President with regard to the release
22 of national security information.

23 I gather that that information has now been leaked in the
24 form of a final report, distinct from the documents.

25 Mr. Colby. I do not think they have voted.

1 Senator Brock. I do not think they have voted, but the
2 information was in the Washington Post this morning, so it
3 does not really matter, does it?

4 I wonder how we can guard against that, no matter what
5 our format is. I wonder what we can do.

6 I think that we can apply rather specific sanctions to
7 staff. I think that is essential. But I do not think this
8 is a staff problem. I may be wrong.

9 The Constitution very clearly limits the law and its
10 application to the Congress or a member of Congress. He cannot
11 be held accountable in any other place for words he uses in
12 his official duties.

13 That is where I see a problem.

14 I wonder if you would comment in this particular context
15 on the choice, for example, between having a House Committee
16 and a Senate Committee separately, or a Joint Committee or
17 the choice Senator Percy mentioned on having both in the
18 appropriations and authorization process.

19 Mr. Colby. You go at it with a mathematical approach,
20 Senator Brock. A secret becomes half a secret when two
21 people become involved in it. You can carry on that arith-
22 metical progression from there on.

23 The fewer members that are on the appropriate oversight,
24 the better. Obviously there has to be a substantial enough
25 body to be representative of the House or the Senate as a

1 whole. I think the idea of limiting the number to a rather
2 smaller number increases a sense of self-discipline about the
3 secrets.

4 Secondly, I think that there are some improvements that
5 could be made in the rules of the houses to stress the impor-
6 tance of secrecy. Then it is up to the houses to discipline
7 their own members and there are ways in which that has been
8 done, both in the formal ultimate sense and the informal
9 sense of the relationship among the members.

10 I believe there are many countries in the world where
11 there are members, not just of the loyal opposition, but of
12 a disloyal opposition against members of the particular
13 Parliament, and those Parliaments have worked out systems
14 whereby they continue to do the business of the majority of
15 the Parliament and the majority of the nation, even though
16 there are some disloyal opposition members in those Parlia-
17 ments.

18 I do not think we have any disloyal members of our
19 Congress and the Senate, but I think that the techniques of
20 controlling secrets and controlling a responsible management
21 of the government are somewhat similar and could be adaptable.

22 Senator Brock. In essence then, and probably, if I
23 could put words into your mouth, you would prefer -- I think
24 you said this in your statement -- a Joint Committee, number
25 one, and number two, that that Committee have both authorization

1 and appropriation responsibilities.

2 Mr. Colby. Yes.

3 Senator Brock. Can I ask you, for my own personal
4 information, to comment or describe for me the understanding
5 that you did have in that particular instance in regard to
6 the Committee's final report?

7 Mr. Colby. We had a dispute over the publication of
8 certain words in some documents that we had provided to the
9 House Committee. I said that those words did have some
10 significance which a careful study by another foreign
11 intelligence service could track back to some specific actions
12 that they had taken.

13 The Committee has cited a reference to this general
14 subject in a published book. That was not my concern. What
15 was in the book was not a matter of concern to me. That was
16 politically appropriate for that to be in the book.

17 What I was concerned about was a further study of some
18 of the leads that those words gave.

19 We then, by direction of the President, we said we
20 would no longer provide the kind of classified information
21 to the Committee that we had been in the process of providing.

22 This led to an impasse between the Committee and the
23 Executive. It led finally to a conference between the
24 Committee Chairman, the House leadership, the President and
25 myself, and in the course of that discussion there was

1 agreement reached that an effort would be made to arrange
2 a situation in which, if the Committee believed that something
3 should be released, and I believed that it should not, that
4 the matter would be referred to the President. If he found
5 it to be detrimental to the national security in a formal
6 sense, then the matter would not be released, pending further
7 resolution of the constitutional issue and legal issues
8 involved.

9 We went through that process with respect to the
10 specific reports a couple of weeks ago, and until this day,
11 the President's certification has been respected by the
12 Committee. There have been a few odd leaks, perhaps, but
13 nonetheless in a formal sense the Committee has respected it.

14 The Committee now contends that that agreement does not
15 apply to the Committee's final report. This is just impossible,
16 Senator.

17 We are not talking about individual documents; we are
18 talking about the information which is contained on the
19 documents, and we are talking about names and we are talking
20 about groups and we are talking about funds, we are talking
21 about numbers.

22 Those numbers do not become unclassified by being taken
23 off of one piece of paper and put on another. They are still
24 classified information.

25 We are at present having a discussion about how to handle

1 that. Our staff has been in consultation with the Committee
2 staff in an attempt to narrow the area of disagreement and they
3 are discussing how this is going to work out.

4 Mr. Rogovin. Senator, the issue is one of access. It
5 is a good example of what an oversight Committee is going to
6 have to face.

7 The Committee obtained complete access with the under-
8 standing that when they were going to make any kind of public
9 disclosure there would be this system of consultation. The
10 access took place, then at the end of the line when no more
11 information was sought, the Committee concluded that it would
12 be a censorship of its report if they allowed the President
13 to determine that any particular piece of information was
14 detrimental to the national security.

15 Any future oversight, using this as an example, has to
16 meet this problem, because Committees will make reports. It
17 is a Constitutional responsibility to inform, and that is
18 where the issue has to be resolved as to how particular
19 material can be made public and any process that should
20 reflect the co-equal nature of the branches of the government
21 and you should not set up a situation where a slim majority
22 of one Committee of one house will declassify a piece of
23 information where the President has said that it will be
24 detrimental to the national interest.

25 I think that this is an extremely important feature of

1 any oversight legislation that this issue be faced.

2 Mr. Colby. This is not in any sense an attempt to
3 censor, Senator Brock. We have worked with committees to
4 try to work phrasings by which things can be said, even
5 critical things can be said, without revealing the details of
6 the specific country, the specific group that is helped, the
7 specific individuals involved.

8 The overall line we can handle without any trouble. We
9 have done that in our discussions with our ex-employees who
10 wish to write books. We negotiate with them as to, well, if you
11 can refer to this in somewhat more of a general term, please
12 go ahead, but do not reveal this particular detail.

13 It is that exact technique that we think can be applicable
14 in a relationship with the Congress.

15 Senator Brock. The situation would require that if you
16 could not get an agreement, you would go to court and you
17 would get a decision of the constitutional requirement?

18 Mr. Rogovin. We reached an impasse with both the
19 Executive and Legislative Branch. We are talking about
20 absolute positions. In order to be able to move this for-
21 ward, we have this ultimate resolution that through the sub-
22 poena power of the Committee, we then see the document and
23 the court would ultimately resolve the question of whether it
24 was classified or not. It was really a recognition that we
25 had gone about as far as we could go without resolving questions

1 of absolute privilege.

2 Senator Brock. I think you and the President have been
3 had. Thank you.

4 Senator Ribicoff. Senator Glenn?

5 Senator Glenn. Thank you, Mr. Chairman.

6 Mr. Colby, you have been in a most difficult job. I would
7 like to associate myself with the remarks of my colleagues
8 here in complimenting you on the way that you have handled
9 this.

10 Mr. Colby. Thank you, Senator.

11 Senator Glenn. I think that we absolutely must have a
12 strong, if anything, expanded intelligence activity in the
13 days that we live. Having said that, we all agree, I am
14 sure, that we want to prevent some of the mishandling of
15 some of this and the covert activities.

16 I think most of the American people and probably all of
17 us in this room agree that we would not agree with them now.

18 I am concerned that maybe we are putting too much
19 attention on whether we have a joint or a single committee
20 or whatever. We are concerned with organization things
21 here, when I think perhaps that there is a much more basic
22 problem.

23 We could set up the most perfect organizational set-up
24 and still not be getting to the touchstones, to the right
25 spot where these decisions are being made. I am concerned

1 in whatever oversight we set up that really we are overlooking
2 what is important, that decisions are not being made at some
3 different level that involve this nation internationally and
4 can influence the whole foreign policy.

5 I am very concerned that we know what we are dealing with,
6 and we are getting to the real sources of where decisions are
7 made. I am not sure that we have approached that yet.

8 You indicated in your testimony that your authority came
9 only from using Presidential authority, I believe was the
10 word, that he must be kept fully informed.

11 Just to make a point here of where that decision is
12 made, did every President know of these assassination plans?

13 Mr. Colby. The record on that, Senator Glenn, is very
14 murky. We have put up a contention that the President did
15 not know or was protected from the details of the information.

16 You can also put up a contention that there was a general
17 climate of discussion where he probably did know of it and
18 should have known of it. You cannot prove either case by
19 examining the available evidence.

20 Senator Glenn. The Committee of 40, did they know?

21 Mr. Colby. I believe they did not know of the specific
22 cases we are talking about.

23 Again, it is the difference between a specific, detailed
24 activity and a general grant of authority to go into
25 a general category of activity. Again, that did not get

1 specific enough so that you have records that clearly
2 indicate it.

3 Senator Glenn. Perhaps those kinds of such a specialized
4 case, maybe they are not as typical as some others.

5 Let us say Angola, plans to go there: were they approved
6 specifically by the President?

7 Mr. Colby. I cannot confirm or deny specifically any
8 present covert activity, Senator Glenn. I will say that
9 any activity that we are conducting at this time or have
10 conducted under my Directorship has been discussed with the
11 40 Committee and has been the result of a Presidential
12 approval.

13 Senator Glenn. What I am concerned with, obviously
14 here, we can set up an oversight and we put up a facade that
15 will be a paper mache type approach to this thing, where
16 the American people think, now we are protected, our checks
17 and balances are now working and our Executive and Legislative
18 Branches of government, and they really will not be, they
19 will be a charade unless we really get to where these decisions
20 are being made.

21 I am not sure the Church Committee -- and I am certain
22 that I am still at sea a little bit about where these decisions
23 are made and what kind of organization or Committee structure
24 we should set up to oversee this.

25 Would you care to comment from that and what, from out of

1 your experience you would advise, what should be our touch-
2 stones in the Executive Branch to make sure we are oversighting
3 what we think we are going to oversight, or hope that we
4 will.

5 Mr. Colby. The present legislation has one positive
6 feature that requires that the Agency report any activity
7 other than intelligence gathering in a timely fashion. That
8 is a matter of law, and they must do it. My successor must
9 do it.

10 It has some weakness in that it requires us to report
11 it to too many Committees, but the concept of a responsive-
12 ness by the CIA or by anyone else who is engaged in this
13 particular kind of activity, either intelligence-gathering,
14 covert action, whatever definition that someone wants, then
15 I think the law will require the officials of the government
16 to respond to the appropriate committees.

17 I would hope that would be a minimum number of committees,
18 because our experience has shown that too many of them means
19 that there are no secrets.

20 Senator Glenn. I would agree with your statements on the
21 need for secrecy. I think that what has happened in some of
22 these areas has just been abominable. That is one reason that
23 I sort of favor the Joint Committee approach rather than the
24 single because of the proliferation of people that would know
25 things about this.

1 Obviously, from our set-up here an oversight function
2 would be much simpler if we could deal with one spot, the
3 head of the CIA, and have full confidence that he, in turn,
4 is fully informed about all DOD operations and NSA and all
5 of the other functions of government, intelligence-wise.

6 Do you favor that type, one central location for all of
7 this, coming to the peak of the pyramid here, or do you think
8 it should be kept a little more diversified.

9 Questions were asked earlier about the FBI and the inter-
10 relatedness there and DOD and the military intelligence area
11 that comes somewhat under you, somewhat under them.

12 Do you think that we should have one man with that Czar-
13 type responsibility and should there be that deliberation,
14 and should we in our oversight deal with several different
15 areas to see what is going on?

16 Mr. Colby. I think there is a clear distinction, as I
17 indicated, between the responsibilities for domestic counter-
18 intelligence and internal security in the hands of the FBI
19 and the problems of foreign intelligence, I think it is quite
20 different.

21 With respect to the relationship with the military, I
22 believe it is very useful to our country that you be able to
23 look to one individual to get an overall look at what I call
24 national intelligence. I think there should be a distinction
25 between national intelligence and what can be called tactical

1 intelligence. The tactical or departmental intelligence
2 activities, you should look to that particular force or that
3 particular department or to the details of intelligence
4 activities at the local level.

5 You cannot have a single intelligence Czar responsible
6 for every radar and every destroyer in the nation. If you
7 have the destroyer, you are going to have the radar. It is
8 properly looked at as a part of the Navy, not as a part of
9 intelligence.

10 On the other hand, there are military activities that do
11 relate very directly to the national intelligence problems.
12 There the Director should have a view, and does have a view,
13 of those activities. There is full disclosure to the Director
14 and I have, on many occasions, reported on the budgets of
15 these national intelligence activities in great detail.

16 Senator Glenn. Do you think there is adequate definition
17 throughout the Executive Branch and all of the different
18 intelligence activities on the level that appropriate decisions
19 should be made?

20 Let us go back to the assassinations. Is it possible
21 for one of your agents someplace -- I suppose it would be
22 possible, of course, for someone to make the decision, yes,
23 it is in the national interest, the best interest, and this
24 has not been run uphill through year and the NSC and the
25 appropriate people and has not been checked with the President --

1 do we have adequate checks to make sure that these decisions
2 are not being made by someone who might be quite misguided
3 as his level as to what is in the national interest?

4 I am just trying to get this whole picture.

5 Mr. Colby. We have some very specific directives and
6 instructions. We have a law that requires that anything other
7 than intelligence-gathering only be done if the President
8 certifies it as important to the national security and it is
9 reported to the committees of the Congress. This is known
10 throughout our structure, that no such activity can be
11 undertaken without that kind of approval.

12 We have an excellent communications system that keeps
13 us in very close contact with our people everywhere in the
14 world, and we have the discipline of the organization itself,
15 a control through the organization.

16 There have been occasions in the past in which it broke
17 down, the occasion that we had the Senate Select Committee
18 look into last year, the fact that there was some small
19 amount of toxin that was left over and not found and was in
20 an old storeroom and so forth.

21 It is possible for that sort of thing to happen in any
22 large institution.

23 I believe our control structure will stand up to any
24 other in terms of its effectiveness.

25 Senator Glenn. Mr. Chairman, my time is up. I would just

1 like to make one short statement here.

2 I think that before we make any decision of whether it
3 is a joint or single committee or whatever, we really have to
4 pin down some of these touchstones of what it is we are
5 going to oversee first so we know what the organization is and
6 the contacts they would develop and what the committee staff
7 would be set up to do and so on.

8 I think that really has to be closely defined. Without
9 knowing some of these things, I do not know whether I could,
10 in good conscience, vote for a single or a joint committee now.

11 We have to define the jobs they are going to do. To
12 really define that, we are going to have to hone in on who
13 their contacts are going to be, and at what levels they are
14 going to oversee. Is it just one spot, just the President
15 or the CIA, or are we going to be required to do a dozen
16 agency checks to perform our oversight function.

17 Unless we define that, and define it very closely, it
18 seems to me that any committee structure whatever, one, two,
19 three or half a dozen committees, are going to do nothing but
20 be a window-dressing that will mislead the American people
21 more than lead them.

22 Senator Ribicoff. My response to that as Chairman,
23 Senator Glenn, in holding these hearings we will have some
24 twenty-five witnesses. This is exactly what we are exploring.

25 As Chairman, I entered these meetings with an open mind,

1 without any preconceived ideas seeking guidance from my
2 fellow members on this Committee, the Executive Branch, and
3 all of those in this country who have something to offer.

4 The Church Committee will not have a bill before us
5 for the next week. We will have their point of view.

6 You, Mr. Colby, made the statement that the sooner this
7 Committee is established, the better. We will welcome, of
8 course, as soon as possible, the input from the Executive
9 Branch.

10 This Committee will give complete consideration and
11 respect to the views of the President of the United States as
12 well as the Church Committee. The sooner we have your input,
13 and the Church Committee's, the better for us as far as this
14 Committee is concerned. We agree, the sooner the better, and
15 by having the cooperation of the membership of this Committee,
16 these hearings are going forward day after day.

17 Once we complete the hearing, we will immediately go
18 towards mark-up and Senator Glenn, you are a very valuable
19 and thoughtful member of this Committee. Any ideas you have
20 will certainly be given the most careful consideration.

21 Senator Glenn. Maybe what I just outlined is the first
22 job of the Committee. We have to determine where to go.
23 Maybe that is the job of the Committee.

24 Senator Nunn. One observation, Mr. Chairman, if you will
25 permit it.

1 I would like to solve all of these organizational
2 problems of intelligence while we go. I believe it is one
3 of the very purposes of the oversight committee.

4 Someone is going to have to spend hours and hours of
5 time to get all of the pegs in the right hole, or find out
6 where they are. I do not know if we can take that on. I
7 certainly think we ought to learn as much about it as we
8 can.

9 I believe that we hope that this oversight committee can
10 undertake an awful lot of that themselves in their delibera-
11 tions with the intelligence community and with the Executive
12 Branch. I believe that if we are looking for a simple
13 solution, we are going to be very disappointed.

14 Senator Ribicoff. Senator Weicker?

15 Senator Weicker. Thank you, Mr. Chairman.

16 Would you agree with me that really the CIA will not
17 be able to operate efficiently until we have an oversight
18 committee in place? I think it is essential, in other words,
19 in restoring confidence and allow you fellows to operate.

20 Mr. Colby. I think it would be a substantial step
21 ahead, Senator Weicker.

22 Senator Weicker. Let me say this.

23 I think that both of us appreciate the necessity to go
24 ahead and get the pendulum in the middle here. If indeed
25 you are spending 122 percent of your time on the Hill --

1 Mr. Colby. That was my associate's number.

2 Senator Weicker. It is probably a good figure. It
3 illustrates the problem as a reaction to the zero percent
4 that used to be spent on the Hill. That is the problem, to
5 try to bring this thing back into some sort of perspective.

6 I am troubled as to where we go from here, having
7 wrestled around with the concept of oversight and having
8 wanted it for three years. Other members of this Committee,
9 the Majority Leader stated yesterday, have wanted it for
10 longer than that.

11 I think, if Senator Mansfield's proposals had been put
12 into effect many years ago, we would not have gone through
13 this mess we are going through now.

14 There is a great deal of difference between the rhetoric
15 on the Hill and the deeds.

16 This is probably going to be measured rather carefully
17 by the American people in the weeks ahead.

18 I will present to you one of the areas that I am truly
19 troubled about and I want your reaction. I have a vote
20 coming up next week on the confirmation of the CIA Director.
21 Both of us known George Bush to be a fine man; there is no
22 argument, both in the sense of his qualities of mind and
23 heart. So let us leave George Bush out of this, it has nothing
24 to do with that individual.

25 My question, the question I have to ask myself, and I

1 would like to have your reaction, when we are trying to
2 reestablish confidence in this Agency, that not only holds
3 for the present, but obviously for the future -- should
4 anyone so closely identified with politics, Democrat or
5 Republican, be the head of that Agency?

6 And I want you to eliminate the individual, George Bush,
7 from your mind. I knew his Dad, I have a great affection for
8 his family and I respect him.

9 There is a problem. This body is going around alerting
10 the American people. We want good intelligence and we want
11 to reestablish confidence, and right out of the box we are
12 going to do something that is going to come under question.

13 I would just like to have your professional opinion
14 as to whether anyone closely identified with politics should
15 head up this Agency.

16 Mr. Colby. I started from a slightly different starting
17 point, Senator Weicker. Although I am a professional and
18 grew out of the profession, I have many times expressed my
19 belief that I think it is somewhat better that a nonprofessional
20 be the head of the Agency and be supported by the professionals
21 in it, somewhat in the same fashion that the head of the
22 Army, Defense Department, Navy and so forth are appointees,
23 civilian appointees, outside of the profession itself and
24 the profession supports and performs under that kind of dis-
25 interested guidance that an outsider poses.

1 Once you say that, then the question is, obviously you
2 do not want a partisan political figure in the post.

3 I think that Mr. Bush has given every indication and
4 every assurance that he intends to avoid any such situation.
5 I am sure there will be a lot of attention addressed to this
6 by our critics of the CIA in the future, and any step in that
7 direction would be immediately highlighted. Consequently,
8 Ambassador Bush would make every effort to keep himself
9 independent of politics.

10 There has been a major letter by the President withdrawing
11 his name from one particular political potential. I think he
12 has given every indication that he intends to perform in an
13 independent manner, befitting this particular agency.

14 Senator Weicker. Again, I want to make clear that I do
15 not think that George Bush is the subject matter of my
16 question. It is the fact that we are trying to restore
17 confidence in this Agency.

18 I have to confess to you, do you feel that the former
19 Chairman of one of the major political parties, either one,
20 Democratic or Republican, is going to be viewed by the
21 American public as bringing the degree of objectivity to a
22 job that I think everybody realizes is one in which they want
23 to have objectivity.

24 Mr. Colby. Of course, I do not believe that it is
25 possible to answer that question without referring to the

1 individuals who have held that post. There are very few of
2 those posts, and very few of those individuals.

3 I do not think that it is possible to say that.

4 I repeat what I said before. I do not believe that a
5 partisan political figure should manage the Agency. In
6 other words, it should not be managed as a partisan political
7 tool of any Administration. I have expressed my confidence
8 that Ambassador Bush has given every assurance that he will
9 not do exactly that.

10 Therefore, I think the background of whether someone did
11 something once is not the touchstone and determinant of the
12 matter.

13 Senator Weicker. We have had testimony by others, not
14 only on this Committee, but in other Committees, that the
15 Attorney General of the United States should not be a partisan
16 political figure, even though that has been the case.

17 The Democrats are the ones that come to mind on this
18 score.

19 I wonder, if in this day and age, the American public
20 is not looking for something, something, quite frankly, very
21 extraordinary in the area of those who head up the Justice
22 systems, the FBI, CIA, or the Department of Justice.

23 I am not so sure that you answered my question.

24 Mr. Colby. I am not so sure that I could.

25 Senator Weicker. I understand your position. You are

1 probably having difficulty dividing the man, in this case
2 George Bush, from the position, but we are dealing -- the
3 problem is, Mr. Colby, that both you and I understand that
4 we have to have intelligence, we have to have the American
5 people believing in their intelligence agency. That is what
6 is at stake right here, whether this thing is going to survive
7 or be washed out at sea. That is why it requires the most
8 extraordinary measure.

9 For all of the noise and fury around here, the first
10 crack out of the box, very frankly coming off a record that
11 partially includes political activity by the CIA, we get
12 into, as far as the public is concerned that does not know
13 George Bush as you and I know him in the area of politics.

14 Mr. Colby. I do not think that it is appropriate for
15 me to discuss my successor, Senator Weicker. I stated my
16 position, I think, as accurately as I can.

17 Senator Weicker. One last question. I wish I had greater
18 time to get into it, but this great chart that we have up
19 here, next to the wall indicates a chain of command.

20 I would like, if I could, put names to this.

21 Director Colby, when did you take over as the head of
22 CIA?

23 Mr. Colby. I was sworn in in September, 1973. Mr.
24 Schlesinger left in May, and I essentially ran it in between.

25 Senator Weicker. Point number two, the head of the National

1 Security Council, am I correct in assuming that that
2 has been Dr. Kissinger?

3 Mr. Colby. The Chairman is the President but the
4 Executive Secretary of it and the manager of the staff as
5 distinct from the counsel is the Assistant to the President
6 for National Security Affairs, which up to a few months ago
7 was Dr. Kissinger.

8 Senator Weicker. Do you think it is advisable, as a
9 practical matter, that a line run from the Secretary of
10 State up to the National Security Council that way?

11 Do you think that is a particularly good situation to
12 have, the Secretary of State being for all practical intents
13 and purposes the head of the National Security Council?

14 Mr. Colby. We are talking about the President and the
15 way he runs his particular office with the people that he
16 has around him. I think organizations should reflect the
17 people and the demands and the political situations. I do
18 not think they are immutable.

19 I think they are subject to change with new personalities
20 and new relationships that come up between people.

21 Senator Weicker. Aside from whatever oversight the
22 Congress can give, however, the National Security Council,
23 in effect, is the Executive oversight relative to the CIA
24 activities, is it not?

25 Mr. Colby. The National Security Council under the Act,

1 the Central Intelligence Agency reports to it. The
2 National Security Council consists of the President, Vice
3 President, Secretary of State, Secretary of Defense --

4 Senator Weicker. May I have one more minute, Mr.
5 Chairman?

6 Senator Ribicoff. There is a vote, and we still have
7 Senator Javits.

8 Go ahead.

9 Senator Javits. I yield.

10 Senator Weicker. Thank you, Mr. Chairman.

11 The only thing that concerns me is the testimony of James
12 Bradmore at the State Department was that between 1973 and
13 1974, the forty covert operations by the CIA operations
14 were approved by the special committee, and apparently the
15 Committee never met. It was strictly a telephone type of
16 operation, with Secretary of State Kissinger not actually
17 having face to face dialogue.

18 Mr. Colby. What happened in that situation, Senator
19 Weicker, we were very sharply reducing the numbers of those
20 operations. We got down by '73 to about 5 percent of our
21 budget being involved in that kind of an operation.

22 Most of those 40 decisions were six month or yearly
23 status reports on ongoing activities. They required no
24 great consideration, no great policy questions were involved.

25 There were some meetings of the 40 Committee on one

1 very important program which was not actually a covert action
2 program. It was an intelligence collection program, but it
3 was a very significant and delicate one. We did meet and
4 discuss that and argue about it, but most of it was not of
5 the level of importance, the individual actions were not of
6 the level of importance that required the actual debate and
7 discussion.

8 Senator Weicker. Thank you, Mr. Chairman.

9 Mr. Colby. I might add that the more important decisions
10 that have been made this year have been the subject of a
11 considerable number of 40 Committee discussions.

12 Senator Javits. Mr. Colby, I would like to join my
13 colleagues in my expression of confidence in you and my
14 appreciation as a United States Senator from New York for
15 the job that you have done.

16 I have had a lot of experience with you before the job
17 in Vietnam.

18 Mr. Colby. Thank you very much.

19 Senator Javits. I take great pleasure in being able
20 to say that.

21 One of my colleagues has asked me to raise an issue with
22 you which I would like to raise.

23 Senator Case yesterday in a speech on the Floor said,
24 with respect to news leaks -- I think he was talking
25 particularly about the leak relating to Italian political

1 parties -- he said, "it is a hard thing to prove, but I have
2 a powerful suspicion that they" -- meaning the CIA -- "are
3 leaking these things themselves, then they can blame it on
4 Congress you see and discredit our disclosure requirements."

5 Then he went on to say, the agencies have not been happy
6 with our requirements that they brief us, and so on.

7 A two-part question, one: is there any truth to that
8 as far as the CIA is concerned, or to your knowledge, as to
9 any other Executive Department agency; and second, what
10 precautions do you take in the agencies against such
11 duplicity.

12 Mr. Colby. Senator Javits, I flatly deny that the CIA
13 leaked that for that kind of a purpose. The CIA was trying
14 to conduct covert actions, and we have been trying. We have
15 held these secrets for a number of months. Most of these
16 exposures came out of some combination of testimony, some
17 combination of an event coming up abroad which brought the
18 matter to public attention, some of the energetic efforts of
19 our news colleagues and journalists in the country who pick
20 up little bits and pieces and add them up to a total picture.

21 There was certainly no conscious effort by CIA.

22 I do urge again, however, that our controls, our legal
23 controls over our own employees are not those they should
24 be to give us proper control over our people.

25 We conduct a number of activities within the Agency

1 limiting the number of people who know about these matters.
2 Large numbers of people in the Agency know nothing about
3 these matters and are deliberately kept ignorant of them for
4 security purposes, but a certain number do have to know about
5 them.

6 We have no indication of dissatisfaction in the Agency
7 with the programs we are undertaking.

8 As a matter of fact, I believe that the Agency on the
9 work that it has been doing in the past few months, I believe
10 has done a splendid job of maintaining its ability to carry
11 out intelligence operations, and also to carry out a very
12 energetic and imaginative program in the covert action field
13 when this has been properly approved.

14 Senator Javits. I therefore take it that that flat
15 denial means that as far as you know, the CIA has not leaked
16 anything for any purpose?

17 Mr. Colby. I could never say that. I can say that the
18 CIA itself has not leaked. I say that individual CIA
19 employees -- I am just not able to say, as I could have
20 said some years ago, but I am sure CIA does not leak. I
21 think we have had enough evidence of the fact that there
22 have been leaks by ex-employees and others, but it is a fact
23 that some of this does leak out. It is certainly not any
24 kind of conscious policy. That, I do absolutely and flatly
25 deny; any kind of policy of leaking something for blaming

1 Congress for having something exposed.

2 Senator Javits. Have you already given us, or can you
3 give us, your suggestions for the legal tightening up that
4 you feel is desirable for the CIA?

5 Mr. Colby. I have submitted some recommendations for
6 legislation and we have worked these through the Justice
7 Department, and they are about to be sent by the Office of
8 Management and Budget to the Congress, which will give us
9 criminal sanctions over the disclosure of sources and
10 methods by those who have voluntarily undertaken the
11 obligation to keep those secret.

12 I believe that the specifics of the recommendation is
13 fully compatible with the First Amendment of our Constitution
14 and is also necessary to protect the liberties of Americans.

15 Senator Javits. Thank you, I am very pleased with the
16 latter assertion, and we shall await that.

17 One other question, since we all have to vote.

18 There has been a lot of attention to the fact about
19 what the CIA has done covertly and whom it tells about it and
20 why, what responsibility there is in the President and the
21 National Security Council, et cetera.

22 I have a totally different question. What about the
23 right of the Congress to know, in order to legislate? What is
24 your appraisal, as now our retiring Director of the CIA of
25 what we have to know to legislate intelligently?

1 I am now a member of all kinds of Committees that need to
2 know what you are discovering covertly or overtly in order
3 to intelligently deal, whether it is Angola or U.S. trade
4 policy or the Panama Canal, which I have just come from digging
5 into very closely.

6 Do you have any recommendations for us on that?

7 Mr. Colby. We have a procedure, Senator Javits, by which
8 the Director comes up and gives a briefing on request on
9 any subject in the world, or to inform the Congress, and in
10 the process we use our most sensitive information, whatever
11 we know about it.

12 I spent yesterday discussions some of the most sensitive
13 details to our knowledge of one particular foreign situation
14 with a House Committee. I also developed a special publica-
15 tion for the Congress to hear some months ago. This was made
16 available to the Committees of the Congress in the hope that
17 it can be convenient for the individual members to look
18 through quickly and profit from the kind of intelligence we
19 collect.

20 Senator Javits. There is nothing you recommend which
21 should strike out that facility of having the Director or
22 authorized representatives coming to brief Committees or
23 individuals as to what they ought to know from the legislative
24 point of view?

25 Mr. Colby. Absolutely not, Senator. I believe we

1 Americans share our decision-making. Part of it is made in
2 the Executive Branch; part of it also involves the Congress.
3 In order for those decisions, those national decisions, to
4 be the best possible, we have to provide the substance of the
5 intelligence information to the Congress to the extent
6 that we possibly can.

7 Senator Javits. Nothing we do in an oversight Committee
8 or anything else ought to strike out that responsibility and
9 that right on our part in the Congress?

10 Mr. Colby. No.

11 I would only ask again that the self-discipline in the
12 Congress itself and the control of its staff members be such
13 that the exposure to that very sensitive information -- it may
14 not be about our operations, it may be sensitive information
15 can still be controlled after it is revealed.

16 Senator Javits. Speaking as a Senator, I think that is
17 one of the big things we need to deal with here. We have to
18 get very much more straight than we have been.

19 There is plenty of law and plenty of rules and lots of
20 efforts, but, question, what are we willing to do about
21 ourselves? That is one that Congress has to answer.

22 Thank you.

23 Mr. Colby. Thank you.

24 Senator Ribicoff. Thank you very much, Mr. Colby, for
25 being with us today. Your testimony has been valuable.

1 The Committee will be in recess until 12:15, when we
2 will hear from Mr. Bundy.

3 (A brief recess was taken.)

4 Senator Ribicoff. The Committee will be in order.

5 I am so pleased that Mr. McGeorge Bundy has done us the
6 honor to be with us today. I have known Mr. Bundy and have
7 worked with him for many years, and the depth of his intelli-
8 gence in every respect, and his experience should be very
9 helpful to this Committee, and I do appreciate his taking time
10 from his very busy schedule to give us the benefit of his
11 thinking.

12 Senator Percy. May I join you in that, Mr. Chairman?
13 We are very honored indeed and very much appreciate your being
14 here Mr. Bundy.

15 Senator Ribicoff. Would you proceed as you would like?

16 (The prepared statement of Mr. McGeorge Bundy follows:)

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1 STATEMENT OF MR. MC GEORGE BUNDY, FORMER SPECIAL
2 ASSISTANT TO THE PRESIDENT TO THE PRESIDENT OF
3 NATIONAL SECURITY AFFAIRS

4 Mr. Bundy. Mr. Chairman, Senator Percy, it is an honor
5 to respond to your invitation to come. I have a substantial
6 prepared statement.

7 In view of the hour and in view of the familiarity with
8 which we both have with so many of these issues, perhaps it
9 would be most useful if I summarized my main opinions and
10 suggestions, but I would like to begin here with two
11 caveats, that I have been out of government for almost ten
12 years, except for some specialized consultations in the later
13 years as counsel to the Johnson Administration. The other
14 thing I would like to make very clear on the record is that
15 during that ten years I have seen to it whatsoever between
16 any intelligence agency and the Ford Foundation. This is the
17 point that is important, because sometimes there are false
18 charges in these areas in foreign countries.

19 Senator Ribicoff. May I say that your entire statement
20 will go into the record as if read, if you are going to
21 summarize.

22 Mr. Bundy. Thank you.

23 I come as a private citizen, and I can offer you four
24 or five general comments.

25 First, I do believe that we do need a new committee. I

1 think it would be better if it would be a single joint
2 committee. I think that as long as there is adequate rotation
3 in such a committee you can avoid the danger that it would be
4 in any sense coopted. I think in the past interests of the
5 Congress as a whole of both houses have been well-served
6 by such joint committees, and as we heard from Mr. Colby this
7 morning, it is always a saving of precious time and energy
8 when one can focus the responsibilities, the reporting and
9 accountability, in as few committees as possible.

10 The need for the committee are clear, I am sure, to
11 members of this Committee.

12 There is a crisis of confidence in the quality, the
13 integrity and even the discipline of the intelligence community.

14 There is need for a basic review of the hazy, statutory
15 underpinnings of major elements of the intelligence community.

16 There is a need to cut back from the makeshift arrange-
17 ments under which the committees are receiving incomplete
18 and fragmentary information. These arrangements do not seem
19 to me to really permit effective oversight, and they do seem
20 to lead to leaks.

21 Finally, in the absence of a new committee, we simply
22 will continue to have a large and important section of our
23 national government which does not appear to have -- I
24 emphasize the word "appear" really -- a serious or sustained
25 relationship of accountability to Congress. The less formal

1 methods that were found acceptable in earlier years have
2 worn out. I do not believe they are any longer effective,
3 even as an instrument of Congressional oversight or as a
4 means for providing the intelligence community before the
5 public with the legitimacy that comes from properly informed
6 Congressional supervision.

7 The next question I would come to is one of jurisdiction.

8 I think the answer here is reasonably clear. I think
9 the principal mandate of a new committee should be to concern
10 itself directly and closely with the work of the Central
11 Intelligence Agency and the National Security Agency, and
12 only generally and less directly with other parts of the
13 intelligence community such as those to be found in the
14 Justice and Defense Departments.

15 Those Departments have very important responsibilities
16 that do relate to intelligence, but I think it would be a
17 mistake to undercut the general responsibilities and powers
18 of the committees now concerned with Defense and Justice,
19 in this specific case, the FBI, for example.

20 One of the great problems in that agency over the years
21 has been its very high degree of autonomy, even within the
22 Justice Department, and the incomplete supervision which it
23 has had from Attorneys General and even Presidents.

24 When you break out a part of its work, or if you did,
25 and put it under another special Select Committee rather than

1 leaving it where Justice as a whole is accountable and
2 responsible, I think you might inadvertently increase the
3 tendency that has existed in that part of government in the
4 past to regard itself as a thing apart.

5 Anyway, in its first years the new committee will have
6 plenty to do if its primary attention is directed to CIA
7 and NSA. I do not mean at all that it should have a general
8 license to concern itself with the boundary lines of intelli-
9 gence, what is general intelligence and what is strictly
10 tactical intelligence; what is general intelligence and what
11 is strictly counterintelligence or internal security.

12 There is nothing new about those hazy boundary lines
13 between committees.

14 I would emphasize my view that the National Security
15 Agency should be included, however, because while it is
16 administered under the Defense Department, it has always been
17 its mission to serve the intelligence community as a whole.
18 Indeed, I think the main outlines of its mission are really
19 determined by the United States Intelligence Board, or at
20 least it used to be so.

21 So in a general way, I think that it would be reasonable
22 to describe the jurisdiction of the new committee as roughly
23 the same as that of the Director of Central Intelligence on
24 the Executive side -- immediate responsibility for the CIA
25 and for defining the missions of the National Security Agency,

1 and a more general responsibility for having views, opinions,
2 and being informed about the relative rights, responsibilities
3 and roles about the numerous intelligence agencies which the
4 government has.

5 The third point I would like to make is that I think it
6 is perhaps a mistake to begin by thinking that this committee
7 will be really so all that different from other standing
8 committees in the field of national security. There are some
9 special complexities -- I will come back to the hardest one,
10 which I think is covert political action.

11 I think it is probably helpful to begin by recognizing
12 that most of the work of such a committee would not be
13 essentially different from that of other committees that have
14 parallel responsibilities. I do not believe, for example,
15 that it is essential for the main elements of intelligence
16 budgets or the authorization or appropriation to be secret.

17 The size and shape of our intelligence effort now is
18 probably better known to our adversaries than to us. I
19 think that it would help if there could be better understanding
20 of just what the intelligence budgets are.

21 Moreover, in spite of conspicuous and lamentable abuses,
22 the bulk of what CIA and NSA do, even where specific techniques
23 and results may be deeply secret, is the work which a new
24 committee could readily understand and monitor in a relatively
25 open way. That is true, as you have been saying this morning,

1 of collection and analysis of information. It is true also of
2 the processes by which intelligence is put together and made
3 available, both to the Executive Branch and in the Congress.

4 Lots of this information does have aspects which are
5 genuinely and deeply sensitive. There is nothing in that that
6 is intrinsically more difficult than the parallel problem of
7 sensitivity and classification which does arise in diplomacy
8 for the State Department and Defense, with weapons systems and in
9 the field of nuclear energy.

10 Just as it is possible to discuss weapons systems without
11 compromising critical details of technical design, and our
12 defense posture without discussing the details of contingency
13 planning, I believe that it is possible to consider general
14 questions of intelligence collection without revealing
15 sensitive capabilities, whether technical or human. There
16 are many real secrets in the field of technical intelligence,
17 as there are also in the work of secret agents. I do not
18 think it is beyond the skill of the committee with a qualified
19 staff to address the task of oversight while respecting those
20 real secrets.

21 It is obvious that a member of the committee could demand
22 some specific information, what is the name of your agent in
23 this or that foreign country which it would be both dangerous
24 and unnecessary for them to have. I myself think that the
25 record of Congressional committees does not justify any fear

1 that the committee as a whole would wish to do that, and if
2 something like that did occur, then I would expect that the
3 general opinion of Congress would support a properly explained
4 resistance by the Executive Branch.

5 So far, we are really not talking about things that are
6 all that different from what Armed Services does, or Foreign
7 Relations does, or at least what those committees do when they
8 do not encounter a particular resistance at a particular
9 moment.

10 Then, I think we can simplify the problem further by
11 noting that some of the matters which have had most attention
12 in recent years will not be on the agenda. Assassination
13 plotting, already forbidden with the Agency some years ago,
14 should certainly be explicitly prohibited by statute simply
15 to reinforce the obvious and general judgment that it has
16 no place in the work of the intelligence community.

17 In the same way, it should not be hard to reinforce
18 existing statutes which have been violated in such instances
19 as the massive surveillance of the U.S. mails.

20 Then there is a third and larger kind of thing, which
21 there has been a lot about in the news lately, which I do not
22 think would be a part of the secret work of any new committee,
23 that is large military and paramilitary operations like the
24 one recently undertaken in Angola.

25 The simple truth is that it is no longer possible to

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1 conduct such operations on an unacknowledged basis, so they
2 should no longer be handled, either here or in the Executive
3 Branch, as if they are really covert. They should be
4 defended and explained, if they occur at all, by the most
5 senior officials of the Executive Branch in the same way that
6 those officials are expected to explain and defend an open use
7 of the armed forces or a program of military assistance.

8 I, myself, think that much of the current tension between
9 the Executive Branch and the Congress derives from a failure
10 at the other end of town to recognize that times have changed
11 with respect to large scale covert operations abroad.

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I am sorry he is gone. I had a chance to argue with him a little before he left.

Only last week Mr. Colby asserted his belief that the United States government needs an ability to conduct large, unattributed, unadmitted operations. The fact is, in 1976, it is just wrong to suppose that there is any such animal.

There have been such things in the past, but not now. The whole environment that the U.S. government now operates in is such that it is quite simply inconceivable that a large operation can remain unattributed for any significant length of time at all.

Moreover, it is a mistake to attribute the difficulty here primarily to recent requirements for reporting to Congressional committees. Its real cause is much deeper; it is the breakdown of the broad political consensus which made it possible, ten or fifteen years ago, for the CIA to conduct such large operations, in the face of widespread knowledge of their existence, without any admission or explanation from the U.S. government.

Let me offer you here -- I will go on with my text -- a single, striking illustration of the difference between then and now. In recent months, there has been a lot of attention given to the fact that the Kennedy Administration in 1962 and '63, even after the Bay of Pigs, maintained a large scale clandestine effort against the Castro regime in Cuba. There

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1 is no question that this happened, and to many it must appear
2 that something is now being revealed which was successfully
3 kept secret from Congress, the public, and the Press at the
4 time.

5 Nothing could be further from the truth. What actually
6 happened was the existence of this effort was widely known,
7 and that in the climate of the time, the major media and the
8 Congress made no effort whatever to expose it in detail.
9 Instead, they took it for granted.

10 A single newspaper column of the time will make my
11 point. Then as now one of the most widely read and authori-
12 tative reporters in the country was James Reston. In the
13 spring of 1963, after the Bay of Pigs and even after the
14 missile crisis, there was a sharp flurry of criticism of
15 President Kennedy's policy toward Cuba on the ground that it
16 was not strong enough. Mr. Reston commented thoughtfully on
17 the President's problem in a column whose full text I offer
18 as an annex to my remarks. Let me read here just a few
19 sentences, as they appeared in the Sunday New York Times of
20 April 21, 1963:

21 "Try as he may, he [President Kennedy] cannot satisfy his
22 critics, and for a number of reasons.

23 "First, he is engaged in a subversive war there that
24 cannot be discussed officially in any detail. There are a
25 great many anti-Castro patriots in the hills on that island

1 who are being supplied in the night by various ingenious
2 methods, but this is not the kind of thing that can be talked
3 about openly. . .

4 "All this gives a negative cast to the President's Cuban
5 policy . . . other than saying he is for 'isolating' Cuba,
6 he cannot talk much about how this is being done, and the
7 net of it gives the impression of a policy of ineffective
8 half-measures.

9 ". . . even many of the American newspaper editors who
10 have been in Washington recently reflected impatience with
11 the policy of restraint."

12 The column winds up quoting the President's defense of
13 his policy of restraint and its last sentence is:

14 "But he could not tell the whole story, and in the end
15 he did not quite quell the instinct for action"

16 There are lots of morals in this, but let us note, frankly
17 that a reporter of the first rank noted quite emphatically
18 that a war was being carried on that could not be discussed
19 by the Press, but the major Press and the Congress paid no
20 attention. There was no hue-and-cry to get the details out;
21 there was no thunder of indignation from the Senate or from
22 the New York Times itself.

23 The only problem was the one Mr. Reston correctly
24 reported: since Mr. Kennedy could not discuss his covert
25 actions, he was forced to leave the field free to the critics

1 of his apparent inaction. I ask you simply to contrast
2 this record with what would happen today if a similar
3 "revelation" were to be made about a similar effort by a
4 reporter of similar standing.

5 Senator Ribicoff. Mr. Bundy, I will take part of my
6 five minutes at that point.

7 This great dilemma of the President's activities that
8 he could not disclose publicly, were they disclosed to any
9 members of Congress?

10 Mr. Bundy. They were disclosed in a general way, I
11 suspect, by the Director of Central Intelligence to individuals
12 in the then-informal processes of oversight.

13 My point, I think, would be, Senator Ribicoff, if Mr.
14 Reston is reporting it in the New York Times in a Sunday
15 column and the Congress does not follow up with a question,
16 the attitude in the Congress must have been different from
17 what it is now.

18 Senator Ribicoff. Thank you.

19 Mr. Bundy. What has happened in the meantime is that the
20 major premise that permitted large-scale unadmitted action,
21 in Cuba and elsewhere, has disappeared. There is no consensus
22 now in favor of such actions, not even in the Caribbean;
23 instead, there is a great deal of sentiment against them,
24 and a deep conviction, in large parts of the Congress and the
25 Press, that there should be constant vigilance against any

1 detailed revelation of, all such activities. If we needed
2 a current example, we have had it in Angola. It is just not
3 possible there -- or anywhere else -- to have "large,
4 unattributed, unadmitted operations." Such operations require
5 a "benign neglect" from Congress and the Press which neither
6 will grant today.

7 I do not wish to be misunderstood as nostalgic for the
8 good old days, but I do want to note my belief that one
9 frequent complaint against such CIA operations is almost wholly
10 unjustified: I do not believe that there is any major case
11 in which covert operations by themselves have been the cause
12 of a later and heavier involvement. That was not the case
13 in Vietnam, where visible and heavily reported political and
14 military involvement were always much more important than
15 the role of the CIA. That was not the case in Cuba, or in
16 any part of Africa.

17 The present and decisive objection to those covert
18 operations is not that they drag the country deeply into
19 things it would otherwise stay out of. It is simply that they
20 are impossible. They will not stay unattributed or unack-
21 nowledged. Since they are impossible, and since fear of them
22 is widespread and real, they should be ruled out.

23 If such large-scale covert operations are not plainly and
24 credibly foresworn by the Administration, then they should
25 be prevented by Congress. Any such military and paramilitary

1 operations should be governed by the open processes parallel
2 to those that Congress applies to the deployment of U.S.
3 armed forces and the provisions of military assistance.

4 We have now dealt, though much too briefly, with most
5 of what will -- and what will not -- be on the agenda of the
6 new committee.

7 The only truly difficult area which remains is that of
8 "covert action" which really should remain secret if under-
9 taken at all. Most of this activity, most of the time,
10 involves relatively small individual actions, often intimately
11 related to the collection of intelligence.

12 Incidentally, that raises the point that the new committee
13 will have to study the distinction that is made so often
14 between collection of intelligence as a relatively simple
15 matter and covert political action. It is a distinction that
16 will not stand very close analysis, because a lot of what
17 is undertaken in the name of the collection of intelligence
18 can have very important political implications, and vice
19 versa.

20 The Committee will probably not wish to know details
21 of such specific small actions, but it will wish to know in
22 a general way how much of this sort of thing there is, and
23 what its purposes and consequences are. It should, I think,
24 keep a constant eye out for the danger that an activity
25 which seems desirable for an immediate purpose may have side

1 effects that outweigh its value. Questions of this sort
2 arise with special urgency in the field of covert information
3 and propaganda activity. It is very dangerous to spread
4 "disinformation," for example, when one of its innocent
5 consumers may be the American public.

6 Moreover, when American intelligence activities, even
7 small ones, become an important part of the political relations
8 between the United States and another country, it is the
9 purpose and shape of these political relations which should
10 most occupy the Congress, and the basic inquiry into such
11 policy issues should probably take place not in the intelli-
12 gence committee, but in a committee or subcommittee directly
13 concerned with foreign affairs as such.

14 It seems to me that the new committee should have the
15 ways and means of informing itself on the general levels of
16 intelligence activity in such a way as to know where there is
17 a question of foreign policy that may not have had proper
18 debate.

19 Let me now turn specifically to the question of covert
20 political operations. I have to tell you, I am really not
21 too clear-cut about how to deal with this. I suspect that the
22 Committee and the Executive Branch will have to have to live
23 with each other and learn as they go. The problems are so
24 hard, indeed, that it is something to reach a conclusion that
25 actions of this sort simply should not be undertaken, at

1 least for a time. While they do not have the innately high
2 visibility that attaches to military and paramilitary activities,
3 they are much harder to conduct in true secrecy than they
4 used to be, and in cases where the damage done by revelation
5 of the effort would clearly exceed any value it might have,
6 it would seem to me wise current policy for the Administration
7 to stay away from such activities.

8 But in the long run I believe it would be unwise to assume
9 that there will be no future cases in which we will wish to
10 give political and financial support to friends abroad for
11 reasons similar to those that can lead to open programs of
12 military and economic assistance, and in some of these cases,
13 it could be important that the sources of such financial
14 support be kept secret.

15 In the current world situation, such cases are not as
16 frequent as they were twenty-five years ago, but I think it
17 would be imprudent to take it for granted that no such need
18 will arise in the future.

19 If, however, we assume that major operations of this sort
20 can safely be omitted in the immediate future, while a new
21 committee is developing its staff, its work processes, and its
22 relationships with other committees and with the Executive
23 Branch, then there will be time for the new committee to
24 develop its own ways and means of reviewing covert political
25 action.

1 No proposal for this process that I have heard so far
2 seems to me wholly satisfactory, and I think we should recog-
3 nize that there is an inherent difficulty here. A truly
4 covert operation, one the very existence of which is supposed
5 to be secret, cannot by definition be openly monitored.

6 You can talk about hydrogen bombs without talking about
7 how they are constructed, but you cannot talk about political
8 support to a given political party without talking about it.
9 This kind of secret is different from those that are dealt
10 with routinely in other committees. I do not think that this
11 difficulty can be readily resolved by statutory language.
12 I myself do not think it is at all clear that the new committee
13 will find it wise to insist on advance knowledge of all such
14 actions.

15 Efforts to depend on the consciences of individual
16 members of Congress seems to me to have great weaknesses. If
17 every Senator and Representative is free to follow his own
18 judgment, then secrecy could never be assured, and the only
19 alternative really open to the Executive Branch is not to
20 undertake such activity. If that is what Congress wants,
21 then I think it ought to say so.

22 Another method recently proposed is that when there is
23 a dispute about keeping such a matter secret, the issue should
24 be resolved by a secret session of the whole Senate.

25 I do not like to say this, but I do not think that is a

1 way of deciding which way to go. It is only a way of
2 deciding against secrecy.

3 It seems to me obvious that in 1976 -- this is not a
4 criticism of any individual member of the Senate as a whole --
5 but in the environment of 1976 I think anything discussed
6 among 100 Senators is not any longer really covert, and I
7 doubt that those who support this proposal are so naive as
8 to believe otherwise.

9 It appears to me that in proposing this appellate
10 process, one is in fact proposing a veto power for any new
11 committee. A mere threat to appeal to the full Senate would
12 be a way of ending any action which truly depended on
13 secrecy for success.

14 Should there be such a veto power, and, if so, what
15 standards should be followed?

16 On the first question, I do not believe we now know the
17 answer, but on the matter of standards, I think we can do
18 better.

19 First, we can ask just how any proposed operation or
20 one which is going into action relates to a publicly recognized
21 and generally approved policy of the United States. If
22 there is no such relationship, I think the case against any
23 operation becomes very strong, because in that situation, the
24 operation will often be an effort to achieve some policy
25 objective without the necessity of explaining and defending

1 it to Congress and to the public.

2 This tendency, which has been evident in recent years,
3 should be steadily and strenuously resisted.

4 For the same reason, the question should always be asked
5 whether in reality the proposed operation requires secrecy
6 for international reasons which can be legitimate, rather than
7 domestic reasons, which are not.

8 Third, the committee should ask the same operational
9 questions that the Executive Branch should be asking. Why is
10 the operation needed? What chance is there that it will
11 accomplish the desired results? What are the costs, the
12 implications, the failure, the penalties of disclosure?

13 It can be argued that requiring all of this puts a heavy
14 restraint on the President of his chief advisors, and that is
15 partly true, but I believe that in any case where there was
16 a clear-cut, open consensus on an urgent need for action, we
17 could expect the review and judgment of the committee to be
18 less burdensome than may now appear in the atmosphere of today.

19 In the meantime, the present lack of public confidence
20 in our covert activities demands the kind of oversight we have
21 been discussing.

22 Let me just wind up, Mr. Chairman, by saying that in
23 saying all of this, I would like to associate myself with
24 those who believe that on balance the record of the CIA is
25 none of which neither the Agency nor the country needs to be

1 ashamed.

2 There have been abuses. There have been failures of
3 supervision within the Agency and in the White House, and not
4 only in recent years. It is also true that energetic officers
5 in any service, perhaps especially in the secret services
6 sometimes, press beyond their orders.

7 It really is true that in the nature of things, the
8 achievements of the intelligence community are less known than
9 its failures. Its general good discipline is less noticed
10 than its occasional irresponsibility and its usually cool and
11 careful estimates of international reality are less noticed
12 than the wild opinions of its occasional zealots.

13 In my experience, the American intelligence community
14 has been generally dedicated, skilled and loyal to the values
15 of our free society.

16 A new committee is needed, in very large part, to help
17 the country to regain a reasonable confidence that this is
18 so.

19 Thank you, Mr. Chairman.

20 Senator Ribicoff. Thank you very much for your valuable
21 testimony.

22 Mr. Bundy, you were Special Assistant to the President
23 for National Security between 1961 and 1966.

24 Yesterday, Dean Rusk, whom you worked with so closely and
25 for whom I know you have the highest respect and affection,

1 testified that it was only until recently that he was aware
2 that there were many intelligence operations that took place
3 during his tenure as Secretary of State of which he was not
4 aware.

5 How did that come about, or how does that come about?

6 Mr. Bundy. I did not hear Mr. Rusk's testimony. I
7 am not sure which particular episodes he is talking about.

8 Senator Ribicoff. I was careful. I was not going to
9 ask him.

10 Mr. Bundy. The two areas that I have observed myself,
11 both in the presses and in testimony in other committees that
12 seem to me to be striking examples of things I know I did not
13 know about, and I know that the predecessor committee of the
14 40 Committee did not know about, were assassination attempts
15 and surveillance of the mails. Surveillance of the mails
16 was not brought before us because, if I believe, it was
17 classified as counterintelligence. Most counterintelligence
18 matters did not ordinarily come before that committee, at
19 least in our time.

20 I think there was no justification for failure to report
21 and get approval for an actual attempt at assassination.

22 Beyond that, there is another difficulty that occurred
23 in the period. Sometimes I think, understandably --- and I
24 do not want to assess blame retrospectively -- the staffing
25 of that committee historically has been very limited, just as

1 as the staffing of intelligence oversight on the Hill has
2 been very limited.

3 If you do not have the proper staff to get behind the
4 paper memorandum or the oral briefing on a particular proposal
5 and follow-up on what actually has been done on that proposal,
6 there can be quite a difference between what you think you
7 approved and what turned out to happen in the long run.

8 That is not a matter of a runaway agency; it is the
9 normal difficulty of staffwork to keep control of an interpre-
10 tation of a policy decision. That is the requirement every-
11 where.

12 Where you have covert operations and you have a require-
13 ment of secrecy, you have difficulty in maintaining that kind
14 of sustained oversight.

15 Senator Ribicoff. What would you do with all of those
16 boxes to eliminate such a lapse? After all, the President
17 and the National Security Council --

18 Mr. Bundy. The Secretary of State, of course, is
19 represented. He sits himself on the National Security Council.
20 He is represented on the 40 Committee, which is the principal
21 committee for covert operations.

22 I do not think that there is any substitute for a committee
23 process for any such operations. As I say, it is possible
24 to strengthen the staff processing and to strengthen the
25 internal discipline as Mr. Colby was saying himself, of the

1 Central Intelligence Agency.

2 The boxes are a little bit misleading in the sense that
3 the Council and those committees also include representatives
4 of the Secretaries, having line authorities over on the left-
5 hand side.

6 Senator Ribicoff. Let me ask you, I gather from your
7 testimony that you believe that there is far more secrecy about
8 the activities of the CIA than are necessary?

9 Mr. Bundy. That is right.

10 Senator Ribicoff. Because operations like Angola are
11 of such a nature that if you cannot keep it secret, you will
12 have to start from the beginning to get a policy decision from
13 the Congress to see whether Congress is going to be with you
14 or not to save yourself the embarrassment to suddenly have
15 Congress say two to one they want no part of it.

16 Mr. Bundy. That is exactly what I am saying.

17 Senator Ribicoff. How do you feel about the possibility
18 of disclosure of sensitive information by the new committee?

19 Would you consider that to be a serious weakness,
20 assuming that there were a Senate committee of nine members,
21 the Majority Leader appointing five, the Minority Leader
22 appointing four, a five to four break-out. Would you be
23 concerned about that type of a Committee leaking secrets?

24 Mr. Bundy. I do not want to say there is no danger of
25 damaging leaks, but I think if you start, as I do, with the

1 assumption that there has to be more fully organized and
2 operational oversight than we have had in the past, then it
3 seems to me that a small Senate Committee or a relatively
4 small Joint Committee is the least available risk, and I
5 just think that it is an acceptable risk.

6 Senator Ribicoff. Is it an acceptable risk for a
7 democracy that is basically an open society?

8 Mr. Bundy. I would say that not to have it is an
9 unacceptable risk, let me put it that way, Mr. Chairman.

10 Senator Ribicoff. Would you summarize for us your
11 views on the complex issue of the conduct of covert activity?

12 Mr. Bundy. As I say, I would put aside these covert
13 activities of the Angolan magnitude. They are not covert, and
14 they should not be treated that way.

15 I really do not have any current knowledge on this. If
16 you have continuing small-scale operations which do not amount
17 to the kind of intervention in a political context which has
18 been much publicized in the case of Chile, there are people
19 who have been agents or with whom we have a cooperative
20 intelligence relationship and sometimes a cooperative intelli-
21 gence relationship among selected individuals, if those
22 individuals are high-ranking in their respective governments.
23 it also becomes a matter of political importance.

24 I think, incidentally, that it is less important than it
25 used to be, and I think that decline in importance is

1 desirable. I can remember times when the CIA men in a given
2 country was closer to the government of that country than the
3 Ambassador. That seemed to us a mistake and when we encoun-
4 tered a situation of that kind in the early 1960's, we changed
5 that situation.

6 I think diplomacy is better left to the diplomats, but I
7 think that line is one that the Committee is well-advised to
8 keep an eye on. That kind of thing has happened in the
9 covert political action field in the past.

10 Then you get to covert political action, that is to say,
11 direct support for a group or a party or a faction or a
12 group which is a factor in the politics of another country,
13 and that is what I think is the most sensitive area. I think
14 that it is very uncertain. I will put it another way. I
15 think it is clear that there ought to be less of it than there
16 ought to be less of it than there has been over the last
17 generation, in part because the basic requirements, the shape
18 of the Cold War, the risk to democracy, and indeed, to the
19 survival of any form of nontotalitarian society have changed.
20 The relationship of the United States to those problems in
21 other countries have changed.

22 The very heavy responsibilities which we had, for example,
23 in the reconstruction of Western Europe after the Second World
24 War at a time which was the time of the blockade of Berlin
25 and the height of the Cold War in my judgment created

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1 an environment in which it was much more understandable that
2 there should be covert political support to democratic
3 political parties than it would be in the same area today,
4 although I do not wish to be heard to say that there is
5 nothing that we should do to support democracy and to resist
6 totalitarian tendencies in that part of the world today.

7 I am not giving you a very precise answer, Senator
8 Ribicoff, because I do not feel that I am that well-informed
9 about the details of particular dangers and particular
10 possibilities to be able to pass judgment on what the Director
11 said this morning is a very limited number of cases in which
12 this action now appears to be desirable, even to the Executive
13 Branch.

14 Senator Ribicoff. One final question.

15 Do you believe that if we had, in all of these sensitive
16 countries, strong, knowledgeable, sophisticated Ambassadors
17 that we would obviate some of the problems where a CIA
18 representative became the rogue elephant?

19 Mr. Bundy. Yes, I do. I also think that it would be
20 helpful if we made more use of strong, knowledgeable Ambassa-
21 dors and did not indulge a penchant for individualistic and
22 secretive action.

23 Senator Ribicoff. This is a problem for the two strong
24 gentlemen on the right who have such a prominent role in the
25 Foreign Relations Committee to insist that they present to us

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1 strong, powerful, sophisticated, intelligent Ambassadors.

2 Thank you very much, Mr. Bundy.

3 Senator Percy?

4 Senator Percy. Just to show how bipartisan all of this
5 is, I would like the Chairman to look at my notes. The key
6 is incompetent Ambassadors.

7 The weak sisters for political reasons, and fat cats who have
8 been nominated to be diplomats. I can imagine why a
9 sophisticated member of the Agency would be more respected
10 by the government than an Ambassador.

11 It is our job to prevent them, and I think we have. In
12 more recent years, I think we have been more active in
13 preventing nominations being sent down. When we get word that
14 somebody like that is going to be nominated, saying look,
15 they are going to have a tough time down here, and we have
16 stopped a lot of them before they even processed them.

17 I think that is a key point.

18 One other question I would like to ask in following up
19 on Senator Ribicoff's line of questioning, if we cannot
20 carry on these largescale covert operations because you
21 cannot keep a secret now with the Press and the vigilance
22 of it and Congress and so forth, do we not have to weigh
23 then, if we undertake an activity, does not the Committee of
24 40 have to weigh into that of what are the changes of it
25 being revealed if we undertake it, then, if it is revealed,

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1 what will be the cost? Will it not really do irreparable
2 damage to the very cause we are trying to serve?

3 In Italy, for instance, do not those factors have to
4 be taken into account, and will it not cut back some of this
5 activity simply because of that?

6 Mr. Bundy. I think they do have to take that into
7 account. I detect some tendency to feel that as long as you
8 do not have to talk about an operation it is still really in
9 some senses not public, and I do not agree with that.

10 By the time you get something as clearly a matter of
11 major activity and public interest as Angola or the proposals
12 with respect to Italy, of which I have read less, but enough
13 to see that they are hardly secret, the danger of pretending
14 that the thing is not happening or thinking you do not have
15 to explain or that you can go on operating without discussing
16 it, the danger is very great.

17 I might say in that context, in the years that I was
18 a member of that Committee, there was a regular tendency to
19 ask the Agency's language for some of its proposals, that was, did
20 it have a part of the plan was what do we do if it leaks
21 in some way? That would be called the plausible denial
22 plan, not a very good phrase. It does not mostly work.

23 To take the most dramatic example, that occurred in
24 1960, at a time when I was not in the government, the shooting
25 down of the U-2. Most of the trouble that developed there

1 developed because the government went through four or five
2 implausible denials over a period of not many days. Their
3 reasons were honorable. They were trying not to make a flat
4 confrontation between the President of the United States and
5 Mr. Khrushchev.

6 I do not think that they succeeded very well. In the
7 end, the President had to say that he had authorized it.

8 If they had not been beguiled by this notion that you
9 could say the thing never happened, they would have thought
10 through some more persuasive way of explaining why that, in my
11 judgment, very important, highly justified and very useful
12 set of enterprises, the U-2 overflights, were in fact not
13 illegitimate in the wider sense because they did serve the
14 interests of the balance of strategic power and preserved us
15 from irrational fears about the danger of nuclear war.

16 Senator Percy. Mr. Bundy, a few years ago when I
17 discovered that the CIA was training the Chicago Police in
18 contravention and, I thought, were breaking the law of the
19 land and I asked for assurances of two successive Directors
20 of the CIA that they would institute procedures to prohibit
21 that under penalty if it were engaged in by the CIA personnel,
22 and they did so, to the best of my knowledge.

23 Mr. Colby has this morning revealed that he has learned
24 that there were two operations that he did not know of before,
25 Chile and one other. Chile was a pretty big one. Its impact

1 was fairly major.

2 Do you think that the Director should, in the light of
3 all the testimony we have had, and Dean Rusk, he did not
4 know certain things, institute internal procedures that will
5 ensure that there would be stiff penalties for anyone in
6 an intelligence activity carrying on some activity that the
7 responsible person to the President was not aware of?

8 Mr. Bundy. I think it is absolutely critical to the
9 restoration of effective confidence in this whole enterprise
10 that there not be only the kind of rearrangement and reinforce-
11 ment of oversight in the Congress which happens to be our
12 specific business this morning, but a parallel tightening of
13 procedures and controls from the Executive Branch and that
14 means in the very first instance that we should not have
15 situations which have been revealed in the testimony last
16 year where the Director of the Central Intelligence Agency
17 himself did not know of very important things going on inside
18 the Agency.

19 I suppose that means a reinforcement of the Inspector-
20 General. It means a clear-cut understanding between the
21 Director and his immediate deputies and down the line, that
22 one does not wish to perpetuate this notion that this is
23 too sensitive for so and so to know about it.

24 That, in my view, is a distortion of a very natural
25 principle of intelligence. The Director of Central Intelligence

1 does not need to know the name of covert individuals who are
2 working with controlling agents in dangerous countries, would
3 not want to know that. But he needs to know what is going
4 on in the sense he knows the size and sense of the operation.

5 It is a distortion of that business of compartmentalization
6 that has led to these abuses.

7 Senator Percy. Do you concur with Mr. Katzenbach's
8 suggestion that even though he opposes advance notice of
9 covert activities to the Congress that there should be a
10 direction that every such activity must be committed to a
11 written record, available for inspection at an appropriate
12 time in the future, and that may prevent -- once they commit
13 it to writing -- that may actually prevent the activity from
14 being carried out that might be if they could just do it
15 without any kind of record.

16 Mr. Bundy. I think it is probably desirable to have a
17 better written record for the Executive Branch's own purposes.
18 That was the characteristic the time that I was familiar
19 with it.

20 I think it is also appropriate that some form of
21 written accountability should be included in the responsibilities.
22 I do not want to try to define exactly what that
23 should be. If you try to define a piece of paper, you may
24 get a piece of paper that has something in it that you do
25 not want to know, what is the name of so and so. But an

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1 appropriate, formal accounting seems to be to be a necessary
2 part of effective oversight.

3 Senator Percy. Finally, what is your view of the
4 suggestion that the role of DCI be separated from those of
5 the CIA?

6 Mr. Bundy. On the surface, that is quite an attractive
7 idea, but I doubt that it would work. I am inclined to
8 think that a DCI without an agency of his own, or whoever it
9 was, a coordinator of national intelligence, would not, in
10 fact, be in a very strong position to conduct that kind of
11 oversight.

12 Senator Percy. Mr. Bundy, could you provide at some
13 point, for the record, just to complete the record, the exact
14 responsibility that you had in government and in the White
15 House and so forth in connection with each of these boxes
16 up here, and then if you would indulge the Committee, to the
17 extent that we could submit some questions to you for answer
18 at your leisure and keep the record open.

19 Mr. Bundy. Will you let me off the lefthand side of the
20 chart, just saying simply my relationships with the Cabinet
21 were deferential and excellent?

22 Senator Percy. Not personal relationships, but your
23 intimate knowledge of each of the intelligence activities.

24 Mr. Bundy. The intelligence activities are the only
25 ones. The ones coming under the NSA are ones that I would

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1 have useful information on, I think.

2 Senator Percy. If we could submit a few other questions
3 to you that time does not permit now.

4 Mr. Bundy. Yes.

5 Senator Percy. Thank you.

6 Senator Ribicoff. Senator Nunn?

7 Senator Nunn. Mr. Chairman, I would just take a few
8 moments.

9 Mr. Bundy, I will commend you on what I think is a very,
10 very thoughtful statement. I think you raise a lot of points
11 here that have not yet been raised and dealt with in a very
12 provocative manner. I think it will be of great assistance
13 to us.

14 What do you term the word "paramilitary" to mean? That
15 is a little hazy in your statement, where you go from para-
16 military to covert, and you use the Angola example.

17 Do you mean by "paramilitary" an involvement of American
18 men that would not be in uniform, but nevertheless would be
19 armed, or do you consider "paramilitary" to mean an aid
20 program, furnishing aid through a third country to buy
21 military weapons to be supplied to fighters other than
22 American nationals?

23 Mr. Bundy. I would include both if they were taking
24 place in nominally civilian and nominally nonmilitary ways.

25 Just the fact that you might be wearing civilian clothes,

1 if you are engaged in military training, you are engaged
2 in a military activity, but you would become a kind of
3 paramilitary by not being a Colonel or a General in uniform.

4 If you provide military weapons or weapons of destruction
5 and do not do it as military assistance, but do it just the
6 same, that is also kind of paramilitary activity. Sometimes
7 you do this by the kind of training that occurred in Southeast
8 Asia of dissident or determined tribesmen, and I think it
9 is anything that has relation to the use of force that is
10 not formally a part of the armed forces.

tape 3a 11 Senator Nunn. In the Angolan example, I think your
12 observation is correct. That operation in the present
13 atmosphere cannot be secret. Under that kind of action, when
14 you say let us go open with it, in other words, under that
15 kind of an example, you would have the Administration come
16 up to the Foreign Relations Committee and say we need X
17 number of million dollars as foreign aid assistance to Angola.

18 You would have a regular request, in lieu of a secret,
19 covert, paramilitary or whatever you would like to term it,
20 action, is that right?

21 Mr. Bundy. That is right.

22 Senator Nunn. Do you think under those conditions what
23 you are really describing is an elimination of that kind of
24 activity, except in extreme circumstances?

25 Mr. Bundy. In part, it is a matter of definition, is it

1 not, Senator? I would not exclude at all the notion that
2 if there really were a demonstrated, large-scale U.S. inter-
3 est in the competition for control in Angola that it ought
4 to be possible -- indeed, I think it is necessary under our
5 system -- that the public and the Congress be persuaded.

6 I do not think that there is anything that I know of
7 in the Constitution or in our history that suggests that
8 covertness is an essential part of the capabilities of the
9 Commander-in-Chief, covertness in the sense of not admitting
10 that he is doing it.

11 Once you are in a war situation, that is where OSS was
12 born. Nobody criticized OSS for being a secret instrument,
13 of carrying on an acknowledged and evident war. That is a
14 different proposition.

15 I think largescale interventions of this sort, as a
16 practical matter, are not possible. I do not think as a
17 political matter they are not impossible, depending how danger-
18 ous we as a country think the situation is. If you asked me, do I have
19 pervasive evidence that Angola represents that kind of
20 danger to the security of the United States, I would say
21 I have not.

22 Senator Nunn. This example is real interesting. I am
23 not disagreeing with you at all. I would be inclined to
24 agree with that analysis.

25 I also think that if you look back at our history, where

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1 we made grave mistakes is continuing to fight the last war
2 and not anticipating the possible scenario of the next one.

3 With that kind of fear, are we not eliminating some
4 intermediate steps that can be taken by our nation rightly or
5 wrongly. As a practical matter I think they already have
6 been eliminated and are we not limited when we eliminate
7 paramilitary and we eliminate paramilitary activities, are
8 we then not limiting the decision-makers to escalate if they
9 think the matter is important? Are we not in effect breaking
10 down some type of de facto rules that we are going to escalate
11 very rapidly matters of importance to our nation in the
12 future?

13 Mr. Bundy. I do not think I think that Senator, although
14 I grant you that that is a real danger. But I think if you
15 hold the distinction of whether you do it covertly or
16 whether you do it openly, doing it openly does not necessarily
17 mean doing it on a very large scale or doing it open-ended.
18 Indeed, one of the very constructive elements in my judgment
19 of the war powers resolution is that it introduced the
20 Congress into this matter in ways that are not limited to the
21 black and white process of declaration of war which so often
22 has been the case in the past.

23 If the President were to take action under the war powers
24 resolution and supposed that he decided to send civilian
25 personnel --- not military personnel --- to train an Angolan

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1 faction and he reported that matter as an action taken, either
2 under the war powers resolution or something like it, I do
3 not feel that the fact that the operation is not covert
4 prevents it from being skillfully designed.

5 We get into an argument here, partly because people
6 think the Agency knows how to do certain kinds of things
7 and the Pentagon does not.

8 Senator Nunn. I do not agree with that. I do not think
9 the Agency has the capability to have a covert, paramilitary
10 operation. I do not think that should be the Agency role.
11 I am trying to analyze where we are standing today.

12 It seems to me if you do it openly it would be almost
13 ludicrous on its face to do it with civilian personnel in a
14 country like ours. I think that you would escalate the
15 military personnel.

16 I do not imagine the American people would support
17 open, paramilitary, civilian personnel being sent to a foreign
18 nation. I cannot conceive of that kind of thing. By
19 definition, we had better start looking at where we are today.
20 I happen to think we are in a position where we are eliminating
21 probably for better, maybe not -- I think one of the mistakes
22 we made in 1960 is that we did not escalate. That is my
23 view.

24 Nevertheless, I think we are eliminating the intermediate
25 step, and our country should realize that, because I believe --

1 not in Angola, but in another situation, the President of the
2 United States, if he does do it openly, would probably be
3 recommending American troops, not some kind of civilian
4 operation. I find that incredible.

5 If the President would come up and say, we want to send
6 a thousand civilians that we are going to recruit to
7 Angola armed with American weapons and we want the Foreign
8 Affairs Committee to approve that and Congress to approve
9 that. I find that incredible.

10 Mr. Bundy. This is not the crucial part of my argument.
11 I would say simply whatever the size of the operation, if to
12 you it is incredible that it should be civilian, well and
13 good. Economic assistance missions, of course, are civilian.
14 Indeed, police have been trained under AID in the past, quite
15 openly.

16 I am not sure it is quite that hard and fast, but leave
17 it be. The question on the size of the operation is the
18 crucial one. If it is big enough so that it is clearly going
19 to be a public matter, then it should be handled as a public
20 matter. It does not change the necessary size of it, that
21 does not make it impracticable for the President to say, I
22 am not going to send a hundred officers up to advise Holden
23 Roberto. All you have to do is explain why.

24 Senator Nunn. Thank you.

25 Senator Ribicoff. Senator Javits?

1 Senator Javits. Thank you, Mr. Chairman.

2 Mr. Bundy, I am very glad to have you with us and have
3 this very fruitful thinking. I like very much what you say
4 about the fact that some issues are just so serious
5 that you have to weigh the fact that they may go better if
6 secret against the urgent need for the broad support of the
7 country. I think that is really in essence the standards that
8 we have to begin to apply.

9 That leads me to your perception of the problem with
10 Mr. Colby: that is, our need for intelligence and how we
11 get it.

12 I would like to refer you to page 5 of your statement in
13 which you said, "A very considerable part of the work of the
14 CIA after all is the collection of information by means whose
15 general character is highly classified and the processes of
16 intelligence assessment together with the assessments them-
17 selves are a proper subject for close Congressional attention.
18 Indeed, Congress is not only a legitimate, but a most important
19 recipient for most of the data and many of the analytical
20 studies available to the intelligence community. It should be an
21 early task of the new committee to recommend a statutory base
22 for more formal and comprehensive reporting to Congress in
23 this field."

24 There, I think, we could very much profit from any ideas
25 on that that you have. You served in a very key Executive

1 department position between the Congress and the Executive
2 department. I am so pleased that you recognize that we, too,
3 have to act with intelligence and foresight and do you have
4 any suggestions as to how this may be formalized?

5 You heard, I am sure, Mr. Colby say that the way he does
6 it is being willing to come up here anytime anybody wants it.

7 Mr. Bundy. With all due respect to any Director, I have
8 in mind something much wider and something deeper than that.

9 Senator Javits. I am sure you do.

10 Mr. Bundy. The intelligence community in the Executive Branch
11 is a very large-scale enterprise. It has to be. Intelligence
12 with respect to industrial, economic resource matters, not
13 just in the national security intelligence committee, but
14 in other departments, it is more important than military
15 intelligence, intelligence about intelligence.

16 All of these matters need more than the concise and
17 informed and balanced summaries which I think have been the
18 habit of CIA Directors briefing Congressional groups, and I
19 think -- and this is not, of course, a new idea with me --
20 I think the man who has carried this banner in the past, if
21 I am correct is Senator, now Ambassador, Cooper. My experience
22 in reading the output of the intelligence community is most
23 of it would be just as valuable and just as appropriate for
24 a member of the Congress and his staff member as it is for
25 the Assistant to the President and his staff member.

1 The only place you get a difficulty is when the
2 President has commissioned a particular mission that relates
3 on the face of it to something he may be thinking of doing;
4 the document that he has asked for, what would happen if I
5 do such and such in this country.

6 He is entitled to have such information advisory to him
7 in the decision-making process, and I would not share those
8 documents, as such. On the other hand, if a Congressman
9 asked the same question, what would happen in the United
10 States did such and such in this country at such and such a
11 time, he would have the same answer.

12 What you are protecting is only what is on the President's
13 mind, not the mine of information that ought to belong to the
14 whole decision-making community of which the Congress is a
15 part.

16 Senator Javits. I thoroughly agree with that, and the
17 courts have held on it. The courts, after all, did not
18 eliminate what is called executive privilege; they qualified
19 it and restricted it sharply, when the President's own
20 personal conduct was involved. But they certainly did not
21 eliminate it, so I would agree with that.

22 How would you actually manage this? Would you have a
23 new form of procedure by which members could request
24 committees to request together with periodic availability
25 to the whole Congress, each Committee, perhaps, of intelligence

1 assessment in this particular field?

2 Mr. Bundy. I think the Committees should have the right
3 to request this and I think individuals obviously within the
4 limits of not overstraining the response and powers of an
5 agency or a group of agencies should have that kind of power.
6 It is quite possible that you could work out very wide ranges
7 of this information stronger relations between the Congressional
8 Research Service and the CIA, simply because so much of what
9 they have over there does not need a stamp on it at all.

10 Senator Javits. I would greatly welcome it, if you have
11 any further ideas for specifically articulating what you have
12 just told us -- I am hoping to interest many of my colleagues
13 in this idea of cranking into this legislation something that
14 recognizes that we are not just policemen, monitors, or
15 overseers, that we need it too and will do a much better job
16 if we have it. How do we get it.

17 Senator Ribicoff. The thought occurs to me, as I listen
18 to Senator Javits' query, as always, Senator Javits has
19 something important to say, and the ideas are excellent.

20 The thought that I have, Senator Javits, is in order to
21 get this Committee going as soon as possible, it could very
22 well be in the report or in the legislation that we suggest
23 that this oversight Committee report back to the Congress
24 with its suggestion of how they believe, from their work as
25 an oversight Committee, the entire Congress could be made a

1 part of the intelligence -- I thought we might do that.

2 It only occurred to me as I listened to your query, which I
3 think is very, very sound. I can imagine some of the problems
4 we have now with the Third World, the question of commodity
5 agreements, the question of trade, the question of oil, what
6 OPEC is doing, are they or are they not supplying aid to non-
7 Moslem third countries?

8 These are economic issues that we are going to have to
9 wrestle with -- what are called eco-politics even more than
10 geo-politics. I can see where that can be very, very valuable
11 information to me in the Finance Committee.

12 I think Senator Javits has made an excellent suggestion.
13 I will talk to you further. This is something that we could
14 ask the oversight committee once they get into this to see
15 how they could get it to us.

16 Senator Javits. Unless we can by the time we are ready
17 to articulate some beginnings in this area, I join the Chair
18 to look into it.

19 I thank you very much.

20 Senator Ribicoff. Thank you very much.

21 The Committee will stand adjourned until 10:00 o'clock
22 Monday morning.

23 (Whereupon, at 1:25 o'clock p.m., the Committee was
24 recessed, to reconvene at 10:00 o'clock a.m. Monday, January
25 26, 1976).